

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8430 SENATE LABOR & COMMERCE - SENATE RESOURCES



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HJR

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Alaska State Legislature

Legislative Research Agency



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September 23, 1992

MEMORANDUM

TO: Representative Kay Brown

FROM: Linda J. Snow *L. Snow*
Legislative Analyst

RE: The Impacts of International Trade Agreements on Alaska State Laws
Research Request 93.013

You asked for information about the effect on Alaska state laws of the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT). You specifically asked about Alaska laws that could be invalidated by these international trade agreements.

It is difficult to determine the exact impact of the NAFTA and the final agreement of the ongoing round of GATT talks (Uruguay Round) for several reasons. It is uncertain whether either of these agreements will be finalized or ratified by the U.S. Congress. The completion date for the Uruguay Round of the GATT has already been extended 15 times and the parties in the talks are still far from agreement. Political considerations in Europe (many elections are scheduled for 1993) suggest that no one will push for an agreement which may be unpopular. According to David Walsh, director of the Division of Insurance, Alaska Department of Commerce and Economic Development, and member of the several national and international committees dealing with financial services and international trade, the U.S. State Department appears to have given up on achieving an agreement for this round of GATT talks.¹ The main issue of contention is trade in agricultural goods.

The NAFTA has been presented to the U.S. Congress for "fast track" approval, which means the Congress can either approve or disapprove the agreement, but may not make amendments. In this agreement also, politics plays a part. According to Mr. Walsh, strong opposition to the NAFTA exists in both Canada

¹Mr. Walsh is a senior representative in the U.S. delegation to the Organization for Economic Cooperation and Development, chairman of the International Insurance Committee of the National Association of Counties, either chair or vice-chair of several committees of GATT and NAFTA dealing with financial services, and a member of an informal advisory group to the U.S. Department of Commerce on financial services and international trade agreements.

LEG. RESEARCH REPORT ON
NAFTA w/ ATTACHED ARTICLES

and Mexico. The outcome of the U.S. general election will also have a large impact on the status of these agreements.

Furthermore, if and when these agreements are implemented, their various provisions must be tested through challenges. Only when such challenges are resolved will the meaning of the provisions be clear, as the language is vague and subject to interpretation.² If the NAFTA is approved, many of the provisions will be similar to those of the GATT. Where the NAFTA is not in accord with the GATT, countries with a dispute may use the GATT criteria and dispute resolution processes if they choose, because the GATT is superior to the NAFTA.³

A 1964 Supreme Court decision (*Hostetter v. Idelwild*) ruling that state laws can be overridden by other laws requiring the United States to abide by international obligations implies that states are required to abide by international trade agreements to which the U.S. is a signatory. Proposed language for the evolving GATT and NAFTA agreements also suggests that state and local laws are subordinate to these international agreements, and that proposed state and local legislation must be available for review by the parties to these agreements. If the Uruguay Round of the GATT and the NAFTA become international law to which our country is a party, they potentially could impact state and local laws, regulations and programs in the following areas:

- export assistance or subsidies, such as that provided by the Alaska Industrial Development and Export Authority and the Alaska Seafood Marketing Institute;
- special treatment of residents in the procurement code, such as that given by the Alaska Products Preference Program;
- restrictions on nonresident and foreign ownership and investment, including investment in the banking and insurance industries, such as not allowing firms owned or controlled by foreign governments to be licensed in Alaska;

²Mr. Walsh jokingly calls the Uruguay Round of the GATT "the lawyers full employment act of 1993."

³In the NAFTA dispute resolution process, the burden of proof is on the challenger. However, under the GATT dispute resolution process, the burden of proof is on the party being challenged. The challenger may choose whether to use the GATT or the NAFTA dispute resolution process.

- import requirements above the "harmonized" "least-common denominator" international standards in packaging, production techniques, allowable levels of toxicity and other standards;
- export restrictions such as quotas and primary processing requirements;
- domestic industry subsidies such as small business assistance programs and state loans to fish hatcheries; and
- conformity assessment procedures which examine imports for compliance with state technical, environmental, and health and safety regulations.

The sectors of Alaska's economy which may be affected include agriculture, timber, fisheries, mining (including coal, oil and gas), financial services, and any business manufacturing a product or providing a service which receives a subsidy or business assistance. Even if state laws are not affected, state industries may be. For example, the Alaska commercial fisheries industry may be impacted if another party to GATT is allowed to "dump" competing products in the U.S. without restriction. Other possible impacts affect all residents of the state through potential relaxation of health and safety, and environmental regulation of imports and domestic products alike.

Many state and local laws may acquire limited "grandfather rights" or be exempted from these international agreements once they are identified. The Office of the United State Trade Representative (USTR) has surveyed the states to identify state laws which may conflict with the GATT and NAFTA agreements in some areas. Although we have been unable to obtain copies of those surveys from either state or federal agencies, we have obtained Alaska's response to a questionnaire from the U.S. Department of Treasury regarding state laws dealing with investments in Alaska by foreign and out-of-state entities which may impact the NAFTA (Attachment A).

Attachment B of this report is an excerpt from *U.S. Multilateral Trade Agreements and the States: An Analysis of Potential GATT Uruguay Round Agreements*, prepared by the Western Governors' Association, which provides a good overview of the progress of the Uruguay Round talks, and how they may impact state and local laws. Attachment C contains several articles and reports pertinent to the subject. They are:

- *GATT Decision on Beer/Wine Threatens State Sovereignty* by the National Conference of State Legislatures, July 10, 1992;
- *U.S.-Canada Free Trade Agreement: Possible Restrictions on Alaska's In-state Preferences* House Research Agency Memorandum 89.276, April 3, 1989;

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- *U.S./Canada Free Trade Agreement and Alaska Exports*, Senate Advisory Council Memorandum 89-100004, January 18, 1989;
- *States Asked to Open Procurement to Foreign Competition*, by the National Conference of State Legislatures, August 22, 1991;
- *General Agreement on Tariffs and Trade: What It Is, What It Does*; and
- *Trade, Environment, and Sustainable Development: A Primer*, by Robert Housman and Durwood Zaelke.

Although it is not possible to know if either the Uruguay Round of the GATT or the NAFTA will reach fruition, it may be prudent for the state to undertake a systematic study to identify specific state and local laws which may be impacted by these agreements. In some cases, unless the specific laws are identified, they cannot be exempted from subordination to these international agreements. We have not included such a detailed study within the scope of the current research effort, as the complexity and value of the task deserves further discussion, particularly with administration officials who would be called upon to cooperate with the study. We also feel that legal assistance is essential to completion of this task.

We hope this information is helpful to you. If you need further assistance, please feel free to contact this agency.

Attachments



*Linka Stano
Legislative Research*

LEADING THE NEWS

NAFTA

NO DIRECT SANCTIONS ALLOWED IF MEXICO LAX IN ENVIRONMENTAL ENFORCEMENT, REILLY SAYS

If Mexico refused to enforce its environmental laws, the United States under the North American Free Trade Agreement could not directly apply trade sanctions, Environmental Protection Agency Administrator William Reilly said Sept. 15.

In such a situation, the United State would have no direct recourse except formal consultations with Mexico, Reilly told the House Ways and Means Committee.

Many members of Congress will vote against NAFTA because it does not contain an explicit provision on trade sanctions for lax environmental enforcement. — Rep. Matsui

Reilly also testified that it was "unrealistic" for Mexico not to enforce its environmental laws, statutes that the EPA chief said were comparable to U.S. laws. The possibility of Mexico relaxing its environmental enforcement "is remote," he said.

A number of Ways and Means members stressed the need for trade sanctions under NAFTA if Mexico does not enforce its environmental laws.

Rep. Robert Matsui (D-Calif) said he thinks many members of Congress will vote against NAFTA proposed by the Bush administration because the accord does not contain such a provision. Matsui noted that a major concern that many legislators have about the proposed NAFTA is that U.S. companies will move to Mexico because of lack of environmental enforcement.

If many U.S. businesses migrated south, remaining facilities would be disadvantaged competitively, said Rep. Jim McDermott (D-Wash). He said Congress wants to protect the U.S. environment but does not want to send businesses to Mexico.

Environmental Hammer

Matsui said NAFTA needs an environmental "hammer" clause — a provision that would give the United States leverage in negotiations over enforcement of environmental laws. Without such a provision, the NAFTA consultations would become primarily diplomatic rather than trade centered, he said.

Such a "hammer" clause could include provisions for the United States to snap tariffs back into place if Mexico is found to relax enforcement to pump up investment in its industrial sector, Matsui said.

Rep. J.J. Pickle (D-Texas) said if Mexico fails to enforce environmental laws along the border, his constituents need assurances that they will not "end up holding the bag." He added, "There must be a mechanism" to ensure enforcement.

Reilly pointed out that the United States could exclude products made in Mexico contrary to U.S. laws — such as those containing banned chemicals or hazardous waste shipped in violation of agreed-upon terms.

Reilly said Mexico and the United States are crafting on a parallel track to NAFTA a "cooperation agreement" to address pollution and environmental initiatives. This accord would establish a Joint Committee for the Protection and Improvement of the Environment.

The joint committee, Reilly said, would be composed of representatives from various federal agencies in both countries and led by two national coordinators, one from Mexico, one from the United States. It would meet regularly and on an emergency basis.

In addition, the Bush administration is seriously considering a suggestion by the National Wildlife Federation and the World Wildlife Fund that the United States, Mexico, and Canada form a trilateral environmental commission, Reilly said. This trilateral group would issue an annual report on the state of the environment in all three countries, he said.

Wyden Letter To Hills

Distributed at the Ways and Means Committee hearing was a Sept. 14 letter from Rep. Ron Wyden (D-Ore) to U.S. Trade Representative Carla Hills on NAFTA.

"You describe this proposed agreement as 'the greenest trade agreement in history,' but the fact is that much of it is more brown than green," Wyden wrote.

Like members of the Ways and Means Committee, Wyden expressed concern that the NAFTA fails to establish an adequate plan on relaxed enforcement environmental laws. He also said the proposed pact would not protect future environmental agreements that rely on trade sanctions for enforcement.

The proposed NAFTA would discourage countries from seeking to attract investment by weakening environmental laws "but provides for only consultation, not enforcement, if a country does so.

"The final NAFTA should treat such behavior as an actionable trade violation, just as it treats other violations of the investment rules," Wyden said.

The Oregon representative also expressed concern that the proposed accord would "allow a country to use NAFTA to veto another country's desire to join an environmental agreement that uses trade sanctions for enforcement." □

End of Section

Letters to the Editor

Nafta, Mexico and Human Rights

I am compelled to respond to your March 4 editorial "Nafta in the Balance" in order to set the record straight about the Small Business Committee's Feb. 25 hearing on the North American Free Trade Agreement, which examined conditions of the business climate in Mexico.

Our committee has sought to study legitimate points of view about Nafta and its ramifications for the U.S. In five hearings on Nafta, we have included such proponents of Nafta as Prof. John Bailey, whom you quoted; Willard Workman, vice president of the U.S. Chamber of Commerce; and Jeffrey Schott of the Institute for International Economics, whose recent book supports the agreement but fails to include the institute's long-term projection that Nafta would not benefit U.S. employment after 10 years.

No other committee, to my knowledge, has broached the subject of democracy and human rights in Mexico and what the implications might be for the U.S. The witnesses—both American and Mexican—presented riveting accounts of authoritarian and human rights abuses in Mexico that are not compatible with conditions of a truly free and democratic society.

You characterized most of the witnesses as "well-known bashers of Nafta or President Salinas." In fact, they are well-known defenders of human rights and advocates of a truly democratic political process. None advocated dropping the Nafta concept; rather, they suggested the prudence of taking time to ensure a good agreement, implemented in an environment in which the democratic process and respect for human rights are allowed to flourish.

Your allegation that Nafta's fate "is threatened by the capriciousness of a few

special interest groups" overlooks the considerable clout of "special interest groups" that are proponents of Nafta — businesses in the Fortune 500 and the politically powerful who stand to gain financially. In this instance, we have a responsibility to the American small-business community, which might be at a particular disadvantage operating in the Mexican environment under current circumstances.

We must not be swayed by cries that the failure of Nafta "could cause an irrevocable rift in relations with an important neighbor" or "would demoralize Latin America." We must not base our analysis and decisions on the political outlook of another country's leadership. First, we must represent the best interests of our citizens and the long-term economic security of the U.S.

REP. JOHN J. LAFALCE (D., N.Y.)

Chairman

Committee on Small Business

Washington

WSJ

3/15/93

The Outlook

White House Walks The NAFTA Tightrope

WASHINGTON

Despite President Clinton's talk on trade, the U.S. is ready to make big concessions to Canada and Mexico in negotiations starting Wednesday on environmental and labor issues. But if the administration cedes too much, the North American Free Trade Agreement could go down to defeat in Congress.

Nafta faces a tug of war that could tear it apart, to the detriment of trade and prosperity in North America. Yanking on one side, Mexico and, to some degree, Canada say they refuse to yield sovereignty to any tri-national boards negotiated to police Nafta. Tugging on the other side, U.S. labor unions, environmentalists and many lawmakers demand that these boards have tough enforcement powers. Otherwise, they fear, Nafta will undermine wages and degrade the continent's environment.

President Clinton joined the fight during the presidential campaign when he endorsed Nafta, but only on the condition that the U.S. negotiate North American labor and environmental commissions with the power to levy fines and sanctions. "If we don't have the power to enforce the laws on the books, what good is the agreement?"

Mr. Clinton asked in October.

But after fielding complaints from Mexico and Canada — and from supporters of Nafta who fear the boards would push Draconian solutions — Mr. Clinton's negotiators have relented. Last week, U.S. Trade Representative Mickey Kantor told a Senate panel that the commissions shouldn't have any enforcement powers and only limited investigative authority. "I think 'investigate' is the wrong word," he said. Instead, a commission could "review certain policies helpful in the environmental area."

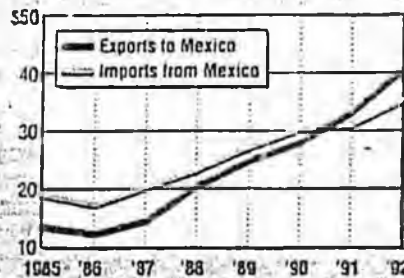
The trade agreement, which would liberalize trade between the U.S. and Mexico over 15 years, has always operated more on a symbolic than an economic plane. If Nafta works out economically, U.S. trade with Mexico — already expanding — should increase steadily. But the numbers aren't huge. Nafta scholar Gary Hufbauer figures the U.S. trade surplus with Mexico would increase in 1995 to between \$7 billion and \$9 billion from the current \$5.4 billion.

Nafta brings out the fear in many Americans that the U.S. is losing control over its economic destiny. Nafta would hitch a big Third World country to the U.S. at a time when many Americans are afraid of losing their jobs and see factories heading south of the border already. At the same time, companies that have been forced by U.S. environmental rules to spend millions on cleanup worry about competing with Mexico, with its hit or miss environmental regulation.

Mr. Kantor threw a bone to Nafta critics by saying the U.S. would try to

U.S. Trade With Mexico

In billions of dollars



Source: Commerce Department.

persuade Mexico to extend legal rights to its citizens to sue over environmental and labor infractions. In effect, that would create a U.S.-style tort system in Mexico. But that nation is, in essence, a one-party state without an independent judiciary. "Corruption and selective enforcement of property rights and contracts [in Mexico] mandated bribes for bureaucrats . . . and judges settling civil disputes," writes Peter Morici, a University of Maine trade economist.

Independent environmental and labor boards could go a long way toward calming some Nafta critics if the boards had real authority. Sen. Max Baucus (D., Mont.) proposes an environmental commission with a full range of subpoena powers. It could investigate charges that, say, a Mexican aluminum company exporting to the U.S. is able to undersell U.S. competitors by disregarding Mexican clean-air standards. If Mexico ignored the commission's findings, according to the Baucus plan, the U.S. government could impose punitive tariffs on the smelter's exports to this country. A Nafta dispute-resolution panel could later assess whether the U.S. penalty is fair.

The Baucus plan wouldn't satisfy all Nafta critics. But it could prompt the Sierra Club and other environmental groups to drop their opposition, and encourage reluctant lawmakers to support the pact.

House Majority leader Richard Gephardt, the most influential House member on trade issues, calls Mr. Baucus's approach promising. He adds that "we have to find a way to see that the laws can be credibly enforced on the border — or the votes won't be there."

A Nafta failure in Congress would call into question the U.S. ability to deliver on controversial trade agreements and undermine U.S. efforts to spur economic growth through a new world-trade pact. It would cause countries throughout Latin America and the former Soviet bloc to reassess the value of swallowing bitter economic reforms, as Mexico has, in the hope of gaining greater access to rich markets.

But unless the Clinton administration can calm critics on Capitol Hill, that may well be the result.

—BOB DAVIS

WSJ
3/15/9

Southwest states eye 'big NAFTA investment

By **RODD ZOLKOS**
Staff Writer

Even the states that wind up winners in the NAFTA gamble will have to ante up for infrastructure investment, environmental protection and job training.

None of those will come cheap.

Many officials are looking to Washington to meet much of the costs of the North American Free Trade Agreement. After all, they reason, NAFTA is a federal policy decision with ramifications passed on to the states. Of course, that line of reasoning has failed state and

The second in a two-part series on the North American Free Trade Agreement's impact on state and local government.

local leaders before.

NAFTA is indeed a major federal policy. If Congress passes legislation approving NAFTA and President Bill Clinton signs it as expected, the agreement will progressively eliminate trade barriers and investment

restrictions among the United States, Canada and Mexico over the next 15 years.

Because the U.S. already enjoys virtual free trade with Canada, the greatest impact will be on those businesses and states that trade south.

Texas is the state that stands to benefit the most from NAFTA, largely because of its existing highway network and developed ports of entry at the Mexican border in Laredo and El Paso (C&S, Jan. 18).

But traffic jams already are severe at border crossings in El Paso and Laredo, and before the state can really cash in on NAFTA-generated

increased trade, roads and bridges will have to be upgraded. The costs are sizeable.

"I've heard numbers tossed around in the \$2 billion to \$3 billion range," said Mickey Wright, an economist with the Texas Comptroller's office.

And roads and bridges aren't the only transportation needs.

"Airports are another thing they're saying will have to be changed," said Eva De Luna-Castro, research analyst in the same office involved in an examination of the state's economic needs over the next 35 years.

The high-technology and service industries that will benefit from NAFTA frequently require rapid transportation for their products and can't rely only on roads and rail, Ms. De Luna-Castro said.

And there's little time to waste in making the necessary infrastructure improvements, Ms. De Luna-Castro stressed. "For the free trade agreement to really benefit Texas, a lot of this has to be in place now," she said. But the costs are daunting and funding won't be easy.

"I think the biggest estimate I've seen is \$4 billion," Ms. De Luna-Castro said.

See NAFTA on Page 22

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City & State, February 1, 1993

NAFTA

Continued from Page 1

Castro said. "The problem with coming up with big numbers is that a lot of people just throw up their hands and say 'We're never going to get the money for this.'"

"We have this infrastructure database of all the local governments, and what their debt burden already is; some cities are really strapped and can't issue any more bonds or they're going to see their ratings drop," she said.

Texas officials may try to find ways to obtain private financing of some projects, and look to tollroads to meet some of their highway needs.

But ultimately, most projects will be financed the old-fashioned way. "It's going to be the way it's always been — federal, state and local partnerships paying for it," Ms. De Luna-Castro says.

To reap their own NAFTA benefits, Arizona and New Mexico will have to make similar infrastructure investments. In Arizona, some \$75 million is needed at the border crossing at Nogales.

What's more, Arizona officials would like to see the state become part of a NAFTA corridor linking Alberta, Canada, with Mexico, and are hoping for federal matching funds through the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to finance highway development.

New Mexico's plans

In New Mexico, state officials are hoping to develop their own significant port of entry with Mexico. Such a project and related highway spending would carry a hefty price tag, as much as \$376 million.

California officials are wrapping up their assessment of NAFTA's impact.

"We are just finishing up a pretty comprehensive list of what we should be looking for to mitigate NAFTA's side effects in terms of cleanup and infrastructure improvements that will be needed," said Philip Romero, chief economist in Gov. Pete Wilson's office.

"Among the infrastructure-related issues our estimate is that additional air traffic, especially in the San Diego area, will cost just about \$1 billion," Mr. Romero said. "That ought to be funded by the U.S. Department of Transportation."

Vehicular traffic across the California-Mexico border, meanwhile, could increase 25%.

"Given that there are millions of border crossings every month, a 25% increase would be significant," Mr. Romero said.

"That increase would require extra staffing of border posts, a cost that

should be borne by federal customs and immigration authorities, California officials say.

An ongoing study of environmental needs on both sides of the Texas-Mexico border is underway, but so far no dollar costs have been set.

In California, state officials expect environmental costs to include \$320 million to clean up the Tijuana River, \$75 million in river cleanup at Mexicali, Mexico, and about \$500,000 annually to finance increased air pollution monitoring.

Added inspections

Because California officials fear some haulers will try to sneak hazardous wastes down to Mexico for dumping, added inspections to prevent such activity will cost about \$1 million per year, Mr. Romero said.

"Our view is all these (environmental) things should be solely or primarily a federal responsibility," the governor's top economist added.

As a federal trade agreement, NAFTA may have an additional environmental impact on states, restricting some of their ability to impose environmental regulations.

In general, states will not be able to impose laws that interfere with the federal trade agreement, and some states might find environmental regulations like recycled content laws becoming grist for interference of free trade claims from Canadian and Mexican manufacturers.

California will look for federal assistance in many areas, including ISTEA funds for highway improvements and funds to assist workers who lose their jobs.

A conservative estimate shows NAFTA spurring a net increase of 10,000 to 15,000 jobs in California, with an increase of 30,000 to 50,000 jobs more realistic, Mr. Romero said. The state will experience no major worker dislocation, with displacements probably in the neighborhood of "a few thousand," he said.

NAFTA

CITY & STATE
Feb. 1, 1993

But, for those who do lose jobs, the state will look to federal laws enacted in the late 1980s that require the feds to assist workers who've lost jobs due to increased imports.

Lost jobs, federal help

Workers losing jobs due to NAFTA will be "entitled to federal assistance and we will insist that the accounts in these federal acts be fully funded," Mr. Romero said.

While the worries of some high-wage workers like autoworkers that NAFTA will cause their jobs to be exported to Mexico are exaggerated (C&S, Jan. 18) workers in some low-wage, low-skill industries will be at risk.

One industry most at risk is textile and apparel, long a backbone of the economies of many Southern and Southeastern states. Alabama is typical.

"It's one-third of the manufacturing workforce, the second largest industry in the state of Alabama," said Kara Kennedy, program manager for the Existing Business and Industry Service Division of the Alabama Department of Economic and Community Affairs.

To head off NAFTA's impact and make Alabama's textile and apparel industry more competitive in the global marketplace, in October 1992 state officials created a textile/apparel team that includes industry representatives, state officials and academics.

The team is reaching out for international business and focusing on technology transfer, working with NASA to apply space age technology to local apparel manufacturing.

The Alabama College System already is playing an active role in employee retraining.

"We've been very successful at retraining some of these people and getting them back into the workforce," said Stafford Thompson, vice chancellor of external affairs for the Alabama Department of Postsecondary Education.

Increased workload

Pressures brought by NAFTA will probably increase his department's workload, Mr. Thompson believes, but that's in keeping with its mission. "One of the priorities of this agency is economic development," he said.

The dollars spent on employee retraining might be less visible than the money spent to build new roads, bridges and airports to tap NAFTA's economic potential.

The Alabama system and similar systems in other states will be key players in retraining those workers who are displaced as a result of NAFTA and in preparing them to take advantage of the higher-skilled job opportunities that should be on the horizon. ■



Coalition of Labor Union Women

MAR 4 1993

P.O. Box 1587
Kenai, AK 99611
March 3, 1993

Representative Jeannette James
Chairwoman of the International
Trade & Tourism Committee
Alaska House of Representatives
State Capitol, Juneau, AK 99801-1182

FAX 1-465-2278

RE: SS for House Joint Resolution 20
Relating to the NORTH AMERICAN FREE TRADE AGREEMENT

Dear Representative James

The Mt. Redoubt AK Chapter of the Coalition of Labor Union Women requests the following comments be read into the record of your Committee's meeting and dispursed to all Committee members.

As a group of working women and men we are interested and at times concerned with various aspects of the proposed NORTH AMERICAN FREE TRADE AGREEMENT.

LINES 3 thru 5

As we understand this agreement the HEALTH, SAFETY and ENVIROMENTAL standards of the State of Alaska would be subject to pressures to lower these safeguards in order to maximize competitiveness; that national compliance to generally agreed-upon international standards by bodies unaccountable to public imput or public participation would force the State of Alaska to accept these standards.

LINES 9 thru 10

...that enviromental safeguards would be limited to "the least trade-restricted (safeguards) necessary for securing the protection required". Would that mean the safeguards now in place in the FREE TRADE ZONE between the United States of Mexico and the United States of America? (the Malquadores) Who would enforce the proposed standards?

LETTER FROM COALITION OF
LABOR UNION WOMEN

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March 3/93
SS HJR 20

QUESTION: what comments has your Committee received from the Alaska Department of Law? from the Department of Environmental Conservation? from the Alaska Department of Occupational Safety & Health? from the Alaska Department of Natural Resources?

The toxicity of workplace chemicals is of concern to us; what about the Photo-sanitary standards of other States, let alone other nations?

Some of our members are poets, writers, dramatists. They worry about intellectual property rights. What about the new technologies we are encouraging Alaskans to develop? Alaska sets aside millions for the Institute of Science and Technology--what impact would the NORTH AMERICAN FREE TRADE AGREEMENT have? Would any or all protections for the Alaskans be negated?

LINES 14 thru 15

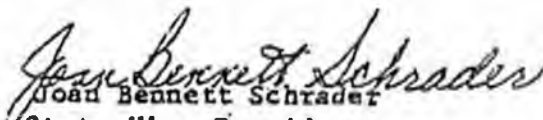
This deals with fresh water land transportation, one nation to another. Alaska has strong interests in knowing what is proposed in that area. Alaska could end up losing control of our fresh water.

Until Alaska and her people know what the full impact of such an Agreement would be, until we know the full content of such agreement on Alaska and on Alaskan families, and workers, the Mt. Redoubt, AK Chapter of the Coalition of Labor Union Women urges full support of SS HJR 20 by your Committee. We ask that the International Trade & Tourism Committee send this Resolution to the Legislature with a strong recommendation to pass and that this be done soon.

It is important that Congress, the President and the nation be fully aware of Alaska's concerns.

Thank you,

Sincerely


Joan Bennett Schrader
State Vice President,
Coalition of Labor Union Women

Telephone: 283-4359

cc: Sponsor SSHJR 20
KPCLC



**KENAI PENINSULA
CENTRAL LABOR COUNCIL**
BOX 1757 • SOLDOTNA, ALASKA 99669

RANDALL KNOWLES
President

April 3, 1993

Representative Bill Williams
Chairman House Resources Committee
Alaska House of Representatives
State Capitol, Juneau, Alaska 99801-1182

Fax: 1-465-3793

RE: House Joint Resolution 20
Relating to the NORTH AMERICAN FREE TRADE AGREEMENT

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K.P.C.L.C. 1 of 3

KENAI PENINSULA CENTRAL
LABOR COUNCIL'S POSITION PPR.

On December 17, 1992 President Bush signed the North American Free Trade Agreement (NAFTA). If approved by Congress the goal is to integrate the economies of Canada, United States and Mexico by removing the regulations and Trade barriers on manufacturing and the movement of goods between our countries.

At first glance this may appear to be quite beneficial, but closer scrutiny reveals what should be of grave concern to all.

The disparity in wage spells disaster for all workers in the United States and Canada. The average manufacturing wage in Mexico is \$1.85 an hour. In Mexico's current Free Trade zone the average wage is 63 cents an hour. Mexico also needs to create 1 million new jobs every year to keep up with new entrance into the job market which creates a tremendous over supply of cheap labor to drive the wages even lower.

Supporters of NAFTA maintain that it will create new jobs for Canadian and American Workers - this is an empty promise. Since 1989 Canada has lost 461,000 jobs. The Maquiladora Trade Zone between the United States and Mexico that was set up in 1971 contained about 200 Firms with 2000 jobs. Today it contains about 2000 Firms and 500,000 workers earning about 63 cents an hour.

Delco has closed plants in the United States and now employs 10,800 workers in Mexico. Zenith and Motorola have also left the United States. In 1974 General Motors had three plants with 7000 workers in Mexico, by 1991 it had 30 plants with 56,000 workers. In the same year General Motors announced 74,000 layoffs in the United States and plans to close 21 United States plants by 1996.

Twenty years after establishing this Trade Zone the Mexican worker still earns 63 cents an hour, about \$29.00 take home pay per week. The average per-capita income in Mexico of \$2010 a year does not make the Mexican worker a ready consumer of United States made products.

With the loss of each manufacturing job in the United States there is a ripple effect throughout our entire economy, with the additional loss of jobs in the service sector. Consumer spending falls, communities falter, tax bases crumble, social services are strained to the limits as government revenues decline.

This arrangement has done nothing more than to exploit the workers and the environment on both sides of the border.

United States. Trucking Industry will suffer a tremendous blow. On April 2, 1992 President Bush ordered states to accept Mexican Commercial Driver Licenses. President Bush claims his agreement with Mexico supersedes current state regulations that insure public safety and requires Mexican drivers to pass a written and on the road test. It leaves states unable to monitor repeat violations of Mexican drivers or take actions to revoke licenses. It fails to address liability and the impact on our insurance rates from accidents involving uninsured Mexican truck drivers.

NAFTA will allow cross/border trucking without meeting United States standards on truck maintenance, inspections, emissions and safe transport of hazardous materials. Truck size and weight rules are left to "Future discussions." Under NAFTA weight limits could increase by over 50%.

The NAFTA agreement provides no protection for United States food, health, safety or environmental standards. Pesticides that have been illegal in the United States for years are currently in common use in Mexico.

Triazophos used on corn, cottonseed and potatoes, Edifenphos used on rice, Phoxim used on corn, rice and sorghum all disrupt the central nervous system, causes nausea, diarrhea, headaches, twitching, cancer, convulsions and death. Pirimicarb used on apples, beans, citrus, onions, peaches, pecans, chili and sweet peppers, potatoes and wheat causes vomiting, diarrhea, blurred vision, slurred speech, respiration disorders and death.

Seventeen pesticides banned in the United States are used in Mexican agriculture. Fifty eight others are used in Mexico in ways that are illegal in the United States. Under NAFTA any challenges to these practices would be considered unfair trade barriers.

K.P.C.L.C. 2 of 3

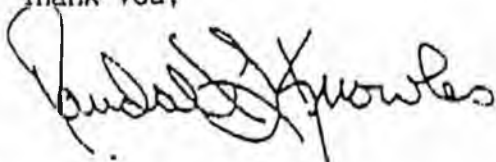
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economy, but we cannot intrust the multi-national corporations to remain at the helm of this agreement.

NAFTA needs an extensive review by the United States Congress; modifying it to provide safe guards for workers, environmental protection, with consideration for the citizens on both sides of the border.

Until we know what the full impact of such an Agreement would be, on Alaska, and Alaskan families, and workers, The Kenai Peninsula Central Labor Council, urges full support of HRJ 20 by your committee.

It is important that Congress, the President, and the nation be fully aware of Alaska and its concerns, over the North American Free Trade Agreement.

Thank you,



Randall Knowles
President
Kenai Peninsula Central Labor Council

Telephone: (907) 283-9299

cc: Sponsor HJR-20
Rep. Kay Brown
Fax: (907) 465-2278



K.P.C.L.C. 3 of 3



NATIONAL CONFERENCE OF STATE LEGISLATURES

444 NORTH CAPITOL STREET, N.W. SUITE 515 WASHINGTON, D.C. 20001
202-624-5400 FAX: 202-737-1069

MEMORANDUM

TO: Members of the International Trade Committee and Interested Legislators and Legislative Staff Members

FROM: Senator James Mathewson, Chair
International Trade Committee

SUBJECT: Implementation of the North American Free Trade Agreement

DATE: December 28, 1993

ROBERT T. CONNOR
SENATE MINORITY WHIP
DELAWARE
PRESIDENT, NCSL

JOHN TURCOTTE
DIRECTOR,
JOINT P.E.E.R. COMMITTEE
MISSISSIPPI
STAFF CHAIR, NCSL

WILLIAM POUND
EXECUTIVE DIRECTOR

When the U.S. Congress approved the North American Free Trade Agreement in November, they joined the United States, Canada and Mexico in a union of over 360 million consumers. The intent of the pact is to foster the free flow of goods by eliminating most tariffs, investment restrictions and quotas between the three countries.

What most Americans remain fully aware of is that the agreement begins a progressive phase-out of tariffs. What is little known about the pact is that it commits states to undertake several actions. For example, states have until January 1, 1995 to identify laws in banking and insurance that restrict activities that foreign entities may conduct. (Laws in California, Florida, Illinois, New York, Ohio and Texas must be identified by January 1, 1994). Under the agreement, these statutes are exempt during this time and placed in an annex to be grandfathered for a further period. State laws that restrict investment also must be listed.

Further, under NAFTA, states may establish self-employment assistance programs as part of their unemployment compensation program. States will be able to pay a self-employment allowance in lieu of unemployment compensation to those who are establishing businesses and becoming self-employed. States that wish to offer the self-employment option must amend their unemployment insurance laws.

In addition, an automotive standards council and a transportation standards committee are created. The goal of these entities is to make the rules and regulations of the three countries as compatible as possible. Representatives of states may participate in these bodies.

Attached is an information alert that pinpoints all areas of state interest under NAFTA. In particular, please note the sections in italics that relate to the states. The National Conference of State Legislatures will be tracking NAFTA through the implementation phase and will continue to update you on any developments that relate to states.

CONGRESS APPROVES THE NORTH AMERICAN FREE TRADE AGREEMENT

William T. Pound
Executive
Director

After months of emotional debate, Congress put closure to the dialogue by approving the North American Free Trade Agreement (NAFTA). The pact creates a hemispheric free trade area and eliminates most trade restrictions between the United States, Canada and Mexico.

441
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Highlights

States must list their banking, insurance and investment laws that conflict with NAFTA's market-opening provisions;

In five years, states may voluntarily open their procurement to foreign competition, thereby eliminating "buy local" preferences;

The pact creates a transportation standards committee to make the motor carrier safety rules of the three countries as compatible as possible;

The agreement establishes a North American Automotive Standards Council to seek harmonization of federal regulations in the safety and emissions areas (countries may include state representatives);

NAFTA does not automatically preempt or invalidate state laws that do not conform to the pact;

The U.S. government will consult with states when complaints arise by the Mexicans or Canadians;

The pact precludes any private right of action against state governments for noncompliance;

Labor and environmental side agreements aim to compel Mexico to enforce pollution laws and labor standards;

A worker retraining component offers \$90 million to train workers that are displaced as a result of NAFTA and allows states to pay a self-employment allowance in lieu of unemployment compensation; and

Southern border states would receive help in cleaning up waste along the perimeter.



Congressional Approval

In an effort to secure votes in the final weeks before Congressional action, the President struck deals with Mexico and members of Congress on the pact. Compacts were made with members of Congress to purchase additional C-17 cargo planes and Mexico agreed to accelerate the pace at which the countries would reduce tariffs on wine, flat glass and appliances. Other deals would allow a reinstatement or snapback of tariffs on citrus if prices drop below averages for the previous five years. Also, Mexico agreed to changes that would make it harder for their businesses to export large quantities of sugar to the United States.

All in all, the last minute trading paid off for the President. On November 17, the U.S. House of Representatives approved the NAFTA package of the agreement, labor and environment side pacts, job training program and funding for border clean-up by a margin of 234-200. The U.S. Senate easily passed the measure on November 20 by a vote of 61-38. The target date of NAFTA will implementation is January 1, 1994.

The Agreement

Background. The North American Free Trade Agreement eliminates most tariffs, investment restrictions and quotas between the United States, Canada and Mexico over 15 years. The goal of U.S. negotiators in developing the pact was to open an historically-protected Mexican market. On January 1, the process of opening the market begins with a progressive phase-out of tariffs and restrictions in financial services, investment, government procurement, transportation, agriculture, automobile trade and textiles. Protection for intellectual property also will be provided.

Financial Services. Mexico agrees to phase out restrictions on foreign ownership of banks and insurance companies. Foreign ownership is to be restricted to 8 percent of the Mexican banking industry initially, allowing this market share to rise to 1 percent per year for seven years and then disappearing altogether. U.S. and Canadian insurers can gain access to the Mexican market in three ways: 1) companies with existing joint ventures would be permitted to obtain 100 percent ownership of firms by 1996; 2) firms forming joint ventures with Mexican insurers may phase in their ownership share, reaching 100 percent by the year 2,000; and 3) new subsidiaries can be established with a transition period permitting market share to rise from an initial 6 percent-12 percent by the year 1999, with all limits removed by the year 2,000.

State Interest. States have until January 1, 1995 to identify laws in the financial services that restrict activities foreign entities may conduct. Under the agreement, these laws are exempt during this time and placed in an annex to be grandfathered for a further period. Measures in California, Florida, Illinois, New York, Ohio and Texas must be annexed by the date NAFTA goes into effect (1/94).

Investment. Foreign investment in Mexico has traditionally been restricted. The pact eliminates some of these constraints and affirms the right to establish new firms, acquire existing businesses and receive the same treatment as domestic companies. Under NAFTA, Mexico may no longer impose "performance requirements" for investors such as compulsory purchases from Mexican suppliers. U.S. businesses have the right to establish and operate investments without being required to 1) export a given level or percentage of goods and services; 2) use domestic goods or services; 3) achieve a certain level of domestic content; and 4) limit imports based upon a country's level of exports. Further, property may only be taken for a public purpose in a non-discriminatory fashion and only after prompt payment of fair

market value.

Sectors that are exempt from investment market-opening provisions are maritime and aviation. Also, constitutional prohibitions against investment in Mexico's sectors such as energy remain in tact. Further, the pact states that countries should not lower environmental standards in order to attract investment.

State Interest. State laws that place restrictions on investment (e.g. prohibiting foreign ownership of land) are exempted from the market-opening provisions of the agreement for two years. The laws must be identified by states and will be placed in an annex to be grandfathered for a further period.

Government Procurement. Countries agree to open a portion of national government procurement to foreign competition. Mexican government agencies currently reserve their contracts for Mexican companies and the market is primarily divided between PEMEX and CFE (the state-owned oil company and the state-owned electric utility). The U.S. and Canada may now have access to 50 percent of their procurement when the agreement takes effect, rising to 70 percent over eight years and lifting all restrictions after ten years. The agreement also eliminates offsets (the practice of imposing a condition on the service provider to benefit a country's economy or balance of payments, for example requiring a factory to be built locally).

State Interest. Under NAFTA, states are asked to voluntarily open their procurement to foreign competition by 1998. By doing so, states would agree to eliminate "buy local" laws.

Dispute Settlement. The government-to-government dispute settlement process involves a deliberative panel that would arbitrate conflicts and issue rulings. The pact establishes a commission with staff from each of the three countries. The process begins with consultation between the two disputing countries. If consultations do not resolve the dispute, the matter is sent up to the commission. If the commission is unable to reach a settlement, a special group called an arbitral panel would be convened. The panel submits an initial report or decision to the countries within 90 days of the selection of the last panelist. A comment period would be allowed and the panel would have 30 days to issue a final report. If the panel determines a law does not conform to NAFTA and the disputing parties are unable to agree on a satisfactory resolution or trade compensation, the complaining party may suspend benefits (in the form of a dollar amount). The disputing party can request a panel to determine if the level of benefits suspended is excessive or not.

Transportation. Within the next three years, U.S. and Mexican truck operators may provide international service to the border states of the other country. After the three years, Mexico is to allow U.S. firms to own up to 49 percent of Mexican trucking companies that provide international service. In six years, trucking companies of both countries may operate anywhere in the other country. The following year, Mexico will allow U.S. companies to own 51 percent of its truck companies that provide international service. In 10 years, Mexico will permit 100 percent U.S. investment in its truck companies. The U.S. remains free to adopt and enforce standards for the protection of life, property, and the environment that may be more stringent than standards in effect in other NAFTA countries.

In early November, Mexico dropped its opposition to requests by U.S. truckers for longer trailers. Mexico agreed to permit longer 53-foot trailers inside its borders, effective January 1, 1994, if Congress approved NAFTA. Currently, nothing longer than 48-foot trailers are in

use in Mexico. In an effort to bolster support in Congress before the vote, the Mexican government also committed to ensuring the availability of clean, low-sulfur diesel fuel in Mexico. This fuel is required for use by U.S. motor carriers.

State Interest. The NAFTA standards section creates a Land Transportation Standards Subcommittee in an attempt to make motor carrier safety rules or other common standards for bus and truck operations of the three countries as compatible as possible. State observers may attend the meetings of the Subcommittee.

Agriculture. Tariffs between the U.S. and Mexico will be eliminated over five, ten or fifteen-year transition periods. Products in the 15-year period for the U.S. include orange juice, sugar, peanuts, certain fresh/dried vegetables and fresh melons. NAFTA also eliminates nontariff barriers such as licensing requirements. Mexico uses licensing requirements to restrict imports of products such as U.S. grain.

To ease the adjustment for some industries, NAFTA proposes a safeguard. The safeguard allows the importing country to reimpose tariffs on various products during the first 10 years of the agreement when imports rise to a certain level. In the United States, the safeguard provisions apply to tomatoes, onions, eggplants, chili peppers, squash and watermelons which comprise about 15 percent of the total U.S. farm imports from Mexico. In Mexico, the safeguard provisions apply to imports of live swine, pork products, potato products and apples which comprise about 3 percent of total U.S. exports to Mexico.

Intellectual Property Protection. Each country must provide adequate and effective intellectual property protection. The agreement establishes protection for several items including copyrights, encompassing sound recordings; patents; trademarks; and integrated circuits (semiconductor chips). The agreement protects computer programs as literary works. It gives copyright owners of computer programs and producers of sound recordings the right to prohibit rental of their products. The pact establishes a 50-year term of protection for sound recordings and a minimum of 50 years for the protection of motion pictures. In order to guarantee enforcement, the agreement contains provisions on damages.

Autos. Each country agrees to phase out duties on its imports of North American automotive goods. For vehicles imported from Mexico, the U.S. immediately eliminates tariffs on passenger automobiles, reduces immediately to 10 percent tariffs on light trucks and phases out tariffs on other vehicles over 10 years. For vehicles imported from Canada and the U.S., Mexico immediately reduces by 50 percent tariffs on passenger automobiles and light trucks. All other tariffs will be phased out in 5 to 10 years. Mexico would immediately permit North American investors to make investments of up to 100 percent in Mexican national suppliers of parts, and up to 49 percent in other automotive parts enterprises, increasing to 100 percent over five years.

In order to qualify for this preferential tariff treatment, automotive goods must contain a certain percentage of North American content (up to 62.5% for passenger automobiles, light trucks, and their engines and transmissions; 60% for other vehicles and parts).

State Interest. The NAFTA countries create a North American Automotive Standards Council to seek harmonization (on a voluntary basis) of federal government technical regulations in the safety and emissions areas. If the three countries agree, the council may include state and provincial representatives or private sector representatives in council activities.

Textiles. The three countries phase out tariffs on textiles and apparel goods over a period of ten years. In addition, the U.S. removes import quotas on goods produced in Mexico. Textile and apparel products must be manufactured in North America from fabric made with North American yarn to qualify for duty-free treatment. NAFTA also requires that the cotton and man-made fiber in certain textile and apparel products must be made in North America to receive preferential duty treatment. The pact has special safeguard provisions that allow any of the three governments to take action to provide temporary relief against surges in imports from another NAFTA country over a 10-year transition period. As a safeguard, the duty of a particular product could be increased if it is determined to cause serious damage to the domestic industry. (This technique is limited to three years and may only be used once for a particular product).

Private Right of Action. *The implementing bill precludes any private right of action against a state government for noncompliance of NAFTA or the side agreements.*

States and the Statement of Administrative Action

The Statement of Administrative Action that accompanies the NAFTA implementing legislation to Congress includes clarifying provisions related to NAFTA and states. The provisions are as follows: 1) NAFTA does not automatically preempt states (even if a panel finds state laws inconsistent with NAFTA, the federal government may consult with the states to determine how the states are to comply); 2) the office of the United States Trade Representative must assist states in identifying financial and investment laws that are inconsistent with NAFTA; 3) the U.S. government will consult with states regarding potential Canadian and Mexican complaints; and 4) the U.S. government will involve states to the greatest extent possible when complaints arise.

The Supporting Package

The supporting NAFTA package includes the labor and environment side agreements aimed at encouraging Mexico to enforce its pollution laws and labor standards, funding for clean-up of the border and a worker retraining program.

The Labor and Environment Side Agreements. The side accords commit the three countries to enforcement of pollution and labor laws. In developing the side accords, the U.S. negotiators sought to decrease the chances that U.S. companies would shift jobs to Mexico to take advantage of lax regulations there. Negotiators assert that through the side agreements, they have addressed concerns that some provincial, federal, state or local governments would ignore laws to achieve a competitive advantage for industries within their jurisdictions. Under the labor and environment side agreements, the enforcement process would work as follows:

- 1) any group or individual (or government agency, union, environmental organization) could bring a complaint for noncompliance;
- 2) if an arbitral panel finds that the complaint is justified, the government would be given up to 60 days to enforce its laws;
- 3) if the government fails to act, the panel would have another 60 days to establish its own enforcement plan and to levy a fine of up to \$20 million; and
- 4) if the government does not pay the fine or enforce its laws, further steps could be taken.

For the U.S. and Mexico, the steps would be sanctions in the form of duties, quotas or limits on investments. In the case of Canada, the ruling would be brought before the Federal Court in Canada which has the authority to enforce the order. If the order is not enforced by the

court, Canada could lose all of the benefits of the free trade pact.

Worker Retraining. The legislation to implement NAFTA includes a worker adjustment assistance program that covers individuals who work for companies both directly and indirectly affected by NAFTA. The program aims to help workers in primary firms (those directly affected by imports from -- or shifts in production to Mexico or Canada) and secondary firms (suppliers of the primary firms and "up-stream" producers, such as direct processors that assemble or finish products made by directly-affected firms).

Workers displaced from primary firms may be eligible for assistance up until September 30, 1998 if Congress has not adopted a more comprehensive worker adjustment package by then. However, the measure only anticipates providing assistance to workers for 18 months due to Administration plans to introduce a package within that period. The \$90 million program draws on the Economic Dislocation and Worker Adjustment Assistance Program (Title III of the Job Training Partnership Act) and the Trade Adjustment Assistance program. Workers would have to enroll in training within 16 weeks of receiving unemployment insurance benefits. By doing so they would qualify for the maximum additional weeks of income support available following the exhaustion of regular benefits.

State Interest. The implementing legislation also amends the Internal Revenue Code to authorize states to establish self-employment assistance programs as part of their unemployment compensation program. States will be able to pay a self-employment allowance in lieu of unemployment compensation to those who are establishing businesses and becoming self employed. Participants in these state self-employment programs will receive weekly allowances while they are getting their businesses off the ground. These payments will be the same weekly amount as the worker's regular unemployment insurance benefits, but participants can work full-time on starting their businesses instead of searching for wage and salary jobs. In addition:

- 1) self-employment allowances will be funded out of each state's account in the Unemployment Trust Fund at no additional cost to the unemployment insurance system;
- 2) states that wish to offer the self-employment option must amend their unemployment insurance laws;
- 3) no more than five percent of the individuals receiving regular unemployment compensation may be part of this program;
- 4) any state operating the program must provide an annual report to the U.S. Secretary of Labor;
- 5) the Department of Labor will issue guidelines regarding self-employment programs early next year and states must establish their programs within those guidelines; and
- 6) the program sunsets in five years;

Border Clean-Up. A border clean-up plan was unveiled in October to solve the problems created from raw sewage being dumped in boundary waters, unsafe drinking water and inadequate municipal waste disposal. Under the plan two entities are created: a Border Environment Cooperation Commission and a North American Development Bank. The goal of the commission is to help border states and communities arrange financing for environmental infrastructure projects. Priority would be given to wastewater treatment, drinking water and municipal waste projects. An objective of the commission would be to offer services to state and local governments and assist them in cooperative activities with

Mexico.

The North American Development Bank provides support for border environmental infrastructure projects. The bank is expected to provide more than \$2 billion in financing and the U.S. and Mexico will contribute to the bank. Up to \$8 billion is needed for border environmental projects over the next ten years. The sources of funding include: 1) private financing; 2) up to \$2 billion from existing state and local programs; 3) \$2 billion in new funding from the World Bank and Inter-American Development Bank, offered as loans to Mexico; 3) close to \$1.4 billion in U.S. and Mexican grants (50 percent from the U.S.); and 4) \$2 billion in loans or guarantees for environmental infrastructure projects from the new bank.

Paying for NAFTA. The U.S. government is expected to lose \$2.7 billion over the next five years as a result of decline in revenue from canceled or lowered tariffs and the cost to retrain workers. Some of the funds would be offset by increasing a \$5 fee on arriving international airline and cruise ship passengers to \$6.50. Other funds would come from a projected decline in federal agricultural subsidies as a result of NAFTA and by improving better Customs Service audits to assure accurate accounting of import duties.

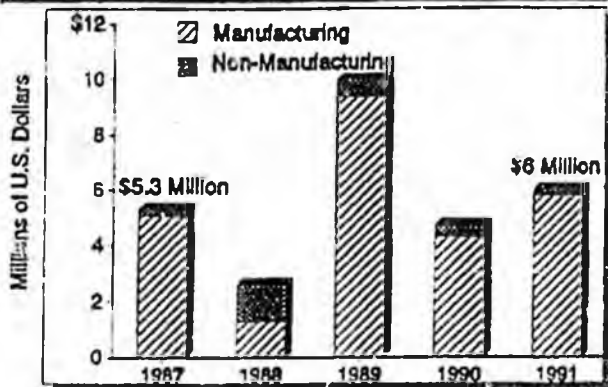
Staff Contact: Karen Britto, Committee Director, International Trade (11/22/93)

ALASKA EXPORTS & JOBS

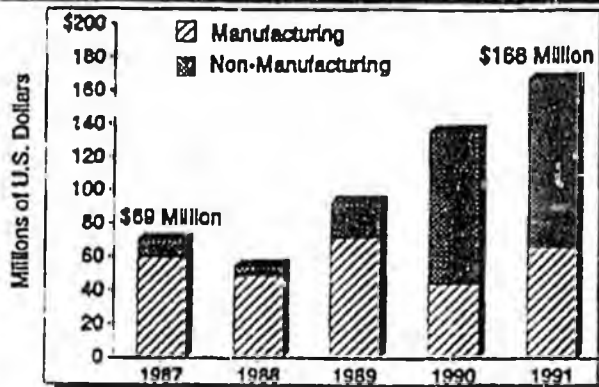


THE NORTH AMERICAN FREE TRADE AGREEMENT

**Alaska's Merchandise Exports to Mexico
Totalled \$6 Million in 1991**



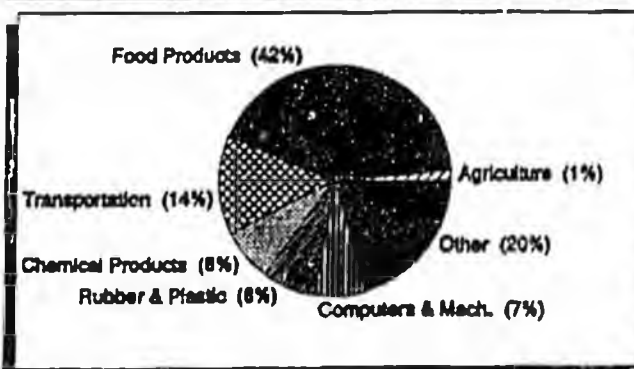
**Alaska's Merchandise Exports to Canada
Totalled \$168 Million in 1991**



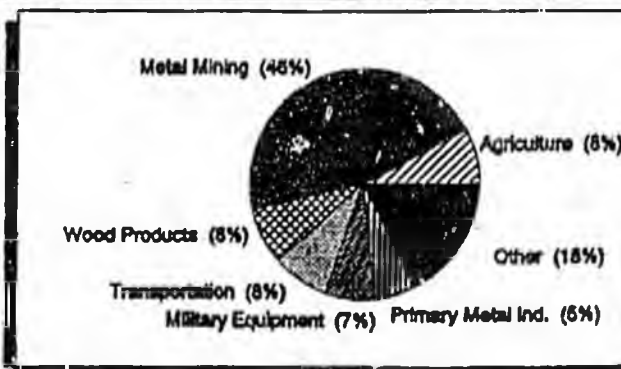
Manufactured exports accounted for 41 percent of Alaska's \$174 million in exports to Canada and Mexico in 1991, and supported an estimated 600 jobs.

- Alaska's sales to Mexico and Canada accounted for 5 percent of the state's total exports.
- Since 1987, Alaska's exports to Mexico have grown by nearly 15 percent and the state's export to Canada have grown by over 140 percent.
- An estimated 200 new jobs have been created by growth in Alaska's manufactured exports to our North American trade partners since 1987.

**Composition of Alaska's Exports to
Mexico 1991: Total \$6 Million**



**Composition of Alaska's Exports to
Canada 1991: Total \$168 Million**



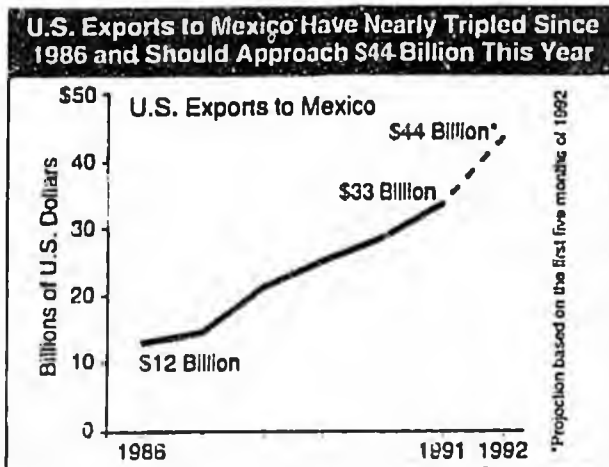
For More Information, contact: Office of the U.S. Trade Representative,
600 17th St., NW, Washington, D.C., 20506

August 1992

OVERVIEW



THE NORTH AMERICAN FREE TRADE AGREEMENT



NAFTA Will Expand U.S. Exports and Generate Jobs

In August 1992, the United States, Canada, and Mexico concluded negotiations on the North American Free Trade Agreement (NAFTA), which will eliminate trade and investment barriers among the three countries.

NAFTA implements President Bush's vision of economic growth through free trade and will make America more globally competitive. It links the United States with our first- and third-largest trading partners, creating the largest and richest market in the world, with 360 million consumers and \$6 trillion in annual output.

Academic studies show "a surprising degree of unanimity" in predicting net U.S. job creation and wage gains from NAFTA, according to the U.S. International Trade Commission. Already, U.S. exports to Canada support 1.5 million U.S. jobs. Our exports to Mexico support more than 600,000 U.S. jobs, which the Institute for International Economics predicts could swell to over 1 million jobs by 1995. These job gains will occur because NAFTA:

- **Eliminates all tariffs** on industrial and agricultural goods produced by the NAFTA partners, enabling approximately 50 percent of our exports to Mexico to enter Mexico completely duty-free on the day NAFTA becomes effective. Mexican tariffs on all remaining industrial products and most agricultural items will be phased out over 5 to 10 years.
- **Opens Mexico's \$146 billion services market** for U.S. providers, including banks, telecommunications, insurance, accounting, and trucking firms, and **improves our access to Canada's \$285 billion services market;**
- **Phases out restrictions in the North American auto market** to create important new U.S. export opportunities, while establishing tough rules of origin that ensure that only vehicles with substantial North American parts and labor benefit from NAFTA tariff cuts;

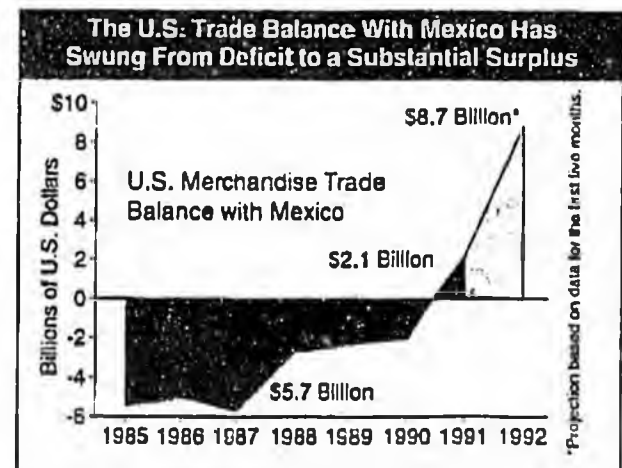
NAFTA

- **Opens access to Mexico for U.S. agricultural exports**, including corn, grains, oilseeds, livestock, and other commodities by phasing out tariffs and import licensing requirements, which currently cover 25% of U.S. agricultural exports;
- **Offers a higher level of protection for U.S. copyrights, trademarks, patents, and other intellectual property rights** from that of any other bilateral or multilateral agreement; these rights are crucial to U.S. exporters of high-technology goods, pharmaceuticals, biotechnology, sound recordings, motion pictures, and computer software;
- **Establishes an effective dispute-settlement mechanism** among the NAFTA partners;
- **Provides fair rules for investment in North America** by ensuring non-discrimination, ending local content requirements, and dropping export performance quotas; and
- **Provides substantially increased access for U.S. firms to Mexico's state-owned energy companies**, with particular benefit to petroleum and heavy electrical equipment suppliers and construction firms. NAFTA establishes transparent rules for bidding and creates a bid challenge procedure.

NAFTA Builds on Recent Gains in U.S. Trade

NAFTA builds on the market-opening U.S.-Canada Free Trade Agreement, which has boosted our Canadian exports to \$85 billion. NAFTA also accelerates the opening of the Mexican market, and locks in recent gains:

- By the end of 1992, U.S. exports to Mexico are projected to more than triple, from \$12.4 billion in 1986 to nearly \$44 billion, transforming our trade deficit of \$5.7 billion in 1987 to a projected surplus in excess of \$8 billion.
- Mexico is now our fastest-growing major market, and has surpassed Japan as our second-largest market for manufactured exports.
- The more than 600,000 U.S. jobs currently supported by our exports to Mexico include all sectors, and are nationwide: almost every state has expanded exports to Mexico since 1987.
- Export-related jobs generally pay 17 percent more per hour than the average U.S. wage. This wage advantage accrues to service workers as well as to workers in the manufacturing sector.



NAFTA Ensures Growth and Stability in Mexico

Increased economic growth in Mexico yields a high payback for the United States:

- Almost 70 cents of every Mexican import dollar – and 15 cents of each dollar of additional Mexican income – is spent on U.S. goods and services.
- Moreover, NAFTA will raise Mexican wages and standards of living, and thus **decrease pressures for unauthorized immigration** to the United States.
- Finally, NAFTA will generate new resources to improve the environment.

NAFTA

NAFTA Assures a Smooth Transition for Workers

The NAFTA governments agree that import-sensitive industries should have time to adjust to free trade. Therefore, NAFTA explicitly provides:

- A **transition** of up to 15 years before tariffs are eliminated on our most sensitive products;
- **Safeguards** to protect against actual or threatened injury from increased imports by permitting the temporary reimposition of higher, pre-NAFTA tariff rates; and
- **Tough rules of origin** and limits on duty "drawback" (rebates) to ensure maximum benefits for products produced in North America.

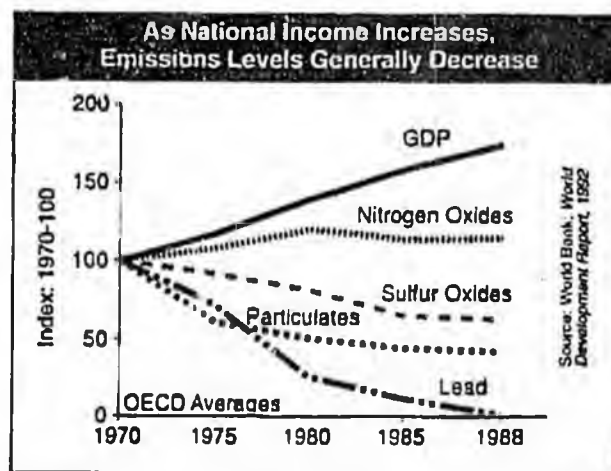
Worker Adjustment Assistance: President Bush is committed to work with the Congress to have in place adequately funded worker adjustment assistance that provides "prompt, comprehensive and effective services" by the time NAFTA enters into force. To this end, the Administration is currently consulting widely with Congress and the private sector.

Long-Term Labor Cooperation: Pursuant to a 1991 Memorandum of Understanding, the U.S. and Mexican governments have been cooperating on key labor issues, such as worker safety and health, child labor, and labor law and worker rights. We are now discussing longer term cooperative efforts to address, through technical assistance and training, priority issues regarding Mexico's labor standards and enforcement regime.

NAFTA Benefits the Environment

The NAFTA agreement affirms the goal of all three nations to "promote sustainable development... [and] strengthen the development and enforcement of environmental laws and regulations..." Accordingly, the NAFTA text:

- Allows the U.S. to maintain its stringent health, safety, and environmental standards, including the right to prohibit imports that do not meet our standards;
- Maintains the right of parties, including state and local governments, to enact even tougher standards, while encouraging the NAFTA parties to strengthen standards through upward harmonization;
- Preserves our right to enforce our international treaty obligations by limiting trade in products such as endangered species or ozone-depleting substances; and
- Permits NAFTA parties to impose stringent environmental standards on investments so long as they apply equally to domestic and foreign investors, while renouncing the lowering of standards to induce investment.



NAFTA

New Resources for Environmental Protection: By generating new income, NAFTA will permit Mexico to devote even more resources to protecting and enhancing the environment. Academic studies show that as economic growth increases, pollution decreases.

Border Plan: The United States and Mexico have developed an "Integrated Environmental Plan for the U.S.-Mexico Border," announced by Presidents Bush and Salinas in February 1992. Mexico has committed \$460 million over three years for border environmental initiatives. President Bush's FY 93 budget includes \$241 million, double the amount in 1992, to clean up the border area's rivers, hazardous waste, and air pollution.

Long-Term Cooperation: To enhance environmental protection and conservation, the U.S. and Mexican governments are pursuing a series of long-term cooperative programs covering enforcement, pollution control and prevention, pesticides, waste management, and emergency response, among other things. This work is expected to result in the establishment of new mechanisms for environmental cooperation, including enforcement.

Next Steps for NAFTA

Timing of Congressional consideration of the NAFTA is governed by "fast track" procedures, which Congress last year extended for agreements signed before June 1, 1993. Under those procedures:

- After negotiations are completed, the President may give formal notice to the Congress of his intent to enter into the agreement.
- Ninety calendar days after giving notice, the President may sign the agreement.
- The President may submit legislation implementing NAFTA to Congress any time after signing the agreement. The President intends to work closely with Congress on developing such legislation.
- Once the legislation is submitted, it will be entitled to "fast track" treatment, meaning that Congress will vote "yes" or "no" on the agreement (no amendments) and will do so within 90 session days of Congress. In the past, passage has taken considerably less time because the Administration has consulted closely with Congress throughout the negotiations and has collaborated with Congress on the drafting of implementing legislation.

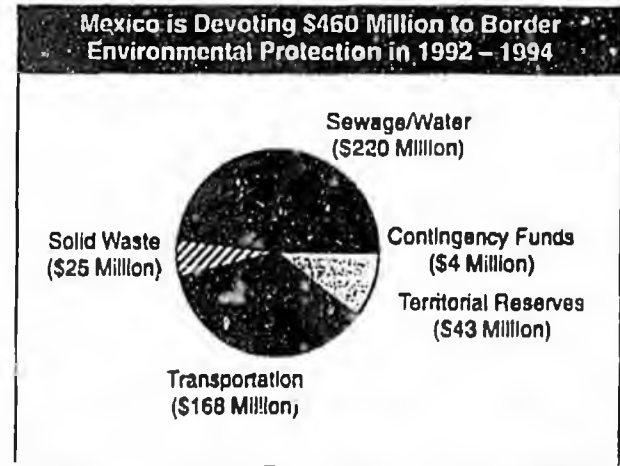
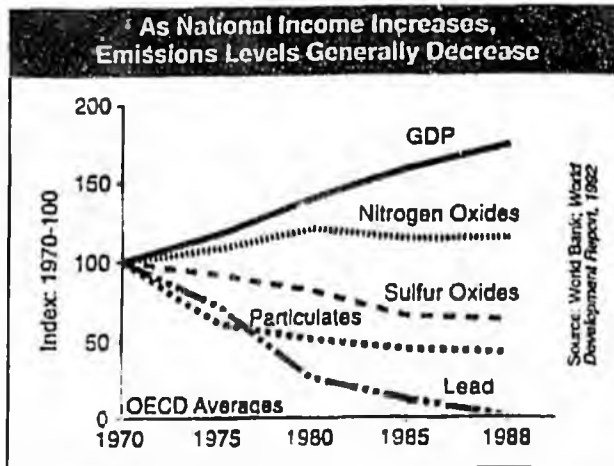
"By building together the largest free trading region in the world, Mexico, the United States and Canada are working to ensure that the future will bring increased prosperity, trade, and new jobs for the citizens of each of our countries."

President George Bush
July 15, 1992

ENVIRONMENT



THE NORTH AMERICAN FREE TRADE AGREEMENT



NAFTA Will Enhance Environmental Protection Throughout North America

The NAFTA parties have agreed that economic development should take place in an environmentally sound manner. Thus, the NAFTA text itself states that one of its primary purposes is to:

"Contribute to the harmonious development and expansion of the economies of the Parties in a manner consistent with environmental protection and conservation;... promote sustainable development;... [and] strengthen the development and enforcement of environmental laws and regulations."

By promoting Mexican economic growth, NAFTA will create more resources for environmental protection. Independent studies show that as a country's national income increases, pollution levels generally decrease.

Key Environmental Provisions of the Agreement

NAFTA's provisions on standards and health and safety measures explicitly ensure our right to safeguard the environment, while also encouraging NAFTA parties to strengthen environmental standards. Specifically, NAFTA:

- **Maintains existing U.S. health, safety, and environmental standards** by allowing the U.S. to continue to prohibit entry of goods that do not meet U.S. standards;
- **Allows the parties, including states and cities, to enact even tougher standards;** and
- **Encourages the NAFTA parties to harmonize their standards upward** to strengthen environmental and health protection.

NAFTA

Importantly, NAFTA also **preserves our right to enforce our international treaty obligations**, including limits on trade in products such as endangered species and ozone-depleting substances.

Environmental protection will be further enhanced by NAFTA's **investment provisions**, which:

- Permit the parties to impose stringent environmental standards on new investments, so long as they apply equally to domestic and foreign investors, while renouncing the lowering of environmental standards as a means to induce investment; and
- Permit the parties to require environmental impact statements on new investments.

Mexico: Environmental Accomplishments

Law: Mexico's comprehensive 1988 environmental law covers air, water, and soil pollution, and is patterned on U.S. law. In some instances, Mexican standards are even stricter than those in the United States — e.g., Mexico requires environmental impact statements for both new public and private investment.

Enforcement: In the last two years, Mexico has dramatically increased its enforcement activities, closing permanently or temporarily over 1000 polluting firms, boosting its enforcement budget from \$6.6 million to \$77 million in 1992, and increasing the number of border area environmental inspectors from 50 to 200.

Mexico City: In March 1992, President Salinas announced that he was requiring the biggest industrial polluters to reduce particulate emissions up to 90 percent or move out of the city. Sulfur oxides, carbon monoxide, and lead concentrations are now at or below acceptable levels; special attention is now being paid to ozone levels.

Conservation: Mexico has set up 44 national parks, 8 reserves, and 14 biosphere reserves; joined CITES in 1991; ended the commercial harvest of sea turtles; is working with the U.S. to eliminate dolphin mortality in tuna fisheries; and has announced plans to use turtle excluder devices on all shrimp vessels by May 1994.

The Pollution Haven Myth: Compliance costs play a minimal role in relocation decisions because they represent a small share of total costs for most industries. Indeed, 86 percent of U.S. industries have abatement costs of 2 percent or less. Moreover, most U.S. industries with high compliance costs already have low tariffs, so NAFTA would give them little incentive to relocate to Mexico.

The NAFTA agreement contains other provisions that are designed to enhance environmental protection, including:

- **Dispute settlement:** NAFTA will allow dispute settlement panels to call on scientific experts for advice in trade disputes raising environmental and health science issues, and places on the complaining party the burden of proving that an environmental or health measure is inconsistent with the agreement. Parties whose standards are questioned can opt to have disputes resolved under NAFTA's provisions.
 - **Land Transport:** NAFTA will decrease border congestion by allowing trucks to transport cargoes directly to their destinations in both countries, cutting idling time and ending the need to switch trailers at the border and return them home empty.
-

NAFTA

The Environmental Review

On February 25, 1992, President Bush released the findings of a nine-month U.S. Government review of the environmental effects of NAFTA, which included public hearings in six U.S. cities. The review concluded that NAFTA will:

- Enhance environmental protection by providing Mexico with additional resources to address current environmental problems; and
- Ease environmental pressures on the border as free trade encourages economic development to occur further south.

The review also concluded that NAFTA will not encourage U.S. firms to relocate to Mexico because pollution abatement costs represent a small share of total production costs in most industries.

The Border Plan

The comprehensive, multi-year Border Plan announced by Presidents Bush and Salinas in February 1992 will improve the environment along the border, while sustaining economic development:

- The "Integrated Environmental Plan for the U.S.-Mexico Border" was developed in consultation with the public and private sectors in 16 border cities.
- The Plan establishes a Border Environmental Advisory Committee, composed of 24 members representing various areas of the border region, and utilizes U.S. and Mexican working groups on enforcement, air, water, hazardous waste, pollution prevention, and emergency response.
- Mexico has announced a three-year \$460 million program for border clean-up. President Bush's FY 1993 budget proposal includes \$241 million for border environmental programs, more than double the amount allocated in FY 1992.

Longer-Term Environmental Cooperation

The United States and Mexico have agreed upon a work program to enhance regional environmental protection and enforcement:

- The United States and Mexico are formulating workplans covering the areas of air, water, hazardous waste, pesticides, enforcement, emergency response, pollution prevention, data exchange, and environmental impact assessment.
- This work is likely to result in new mechanisms for environmental cooperation that will review and monitor environmental relations, including enforcement issues.

The United States and Canada already have established mechanisms to deal with a host of environmental issues, ranging from conservation of ecosystems to control of transboundary movement of hazardous wastes. Most recently, the United States and Canada signed a landmark agreement to reduce acid rain.

MYTHS & REALITIES



THE NORTH AMERICAN FREE TRADE AGREEMENT

Will Mexico's lower wages and workplace safety standards encourage U.S. companies to move to Mexico?

No. The total cost of production is what matters in relocation decisions, not wages alone. Labor productivity is as much as five times higher in the United States than in Mexico, and, over the past decade, U.S. productivity has grown more than twice as fast as Mexico's.

Mexican worker rights and labor standards compare favorably with those in the United States, as do Mexico's laws and regulations on occupational safety and health. Moreover, we have a broad-based cooperative effort underway between the U.S. Department of Labor and the Mexican Labor Ministry to narrow discrepancies that exist.

Will NAFTA lead U.S. companies to move their operations—and jobs—to Mexico to avoid U.S. environmental standards?

No. First, environmental compliance costs play a minimal role in relocation decisions because they represent a small share of total costs for most industries. Moreover, most U.S. industries with high compliance costs already have low tariffs, so NAFTA would give them little incentive to relocate.

Second, all new investments in Mexico must comply with Mexico's 1988 environmental legislation, which closely mirrors U.S. law. In some instances, Mexican environmental standards are even stricter than those in the United States. Mexico's enforcement of these standards is improving dramatically: since

1989, President Salinas has shut down over 1000 factories for non-compliance with Mexican environmental standards, and quadrupled the number of border inspectors.

Third, to narrow any differences in standards and enforcement, we are working closely with the Mexican government. In February 1992, Presidents Bush and Salinas unveiled an "Integrated Environmental Plan for the U.S.-Mexico Border," which establishes working groups on enforcement, air, water, hazardous waste, pollution prevention and emergency response. Moreover, we are making progress toward the establishment of new mechanisms for environmental cooperation, including enforcement.

Will NAFTA turn Mexico into an export platform for products from outside of North America?

No, NAFTA's tough rules of origin mean that the benefits of its tariff cuts go only to North American-made products, thus preventing Mexico from being used as a "pass-through" for non-NAFTA products.

In the auto sector, for example, cars built in Mexico and Canada must contain 62.5 percent North American content to be eligible for preferential tariff treatment.

In the textile sector, to qualify for duty-free status, textiles and garments must be woven and processed in North America generally from the yarn-spinning stage forward.

Finally, NAFTA will eliminate Mexico's export requirements and limit its duty rebate programs, thus removing the artificial incentives firms in Mexico had to export to the United States.

Will NAFTA mean that cheap imports from Mexico will flood the U.S. market?

No, our imports from Mexico are relatively small, equivalent to just over one-half of one percent of U.S. GDP. Moreover, half of those products already are eligible to enter the United States duty free, and thus will be unaffected by NAFTA's tariff reductions.

In addition, NAFTA contains a number of provisions that will protect U.S. workers from import surges:

- Long transition periods for the reduction in U.S. tariffs for import-sensitive sectors; and
- Safeguards, which permit a temporary increase in U.S. tariffs to protect U.S. workers from being injured from increased imports.

Finally, U.S. trade laws remain unchanged and will be strongly enforced to protect U.S. workers from unfairly dumped or subsidized foreign goods.

Will NAFTA increase immigration from Mexico?

No. First, NAFTA does not alter either U.S. immigration laws or the vigor with which they are enforced. Second, free trade will stimulate economic growth, creating new jobs, at better wages, in Mexico:

- Economic growth in Mexico is the single most important long-term remedy to the problem of unauthorized migration to the United States, according to a 1990 report by the Commission for the Study of International Migration and Cooperative Economic Development.
- Indeed, a 1990 U.S. International Trade Commission Study concluded that the NAFTA will both expand the number of

jobs in Mexico and increase average wages, decreasing the economic pressures that lead to emigration to the United States.

Will anything be done to help displaced workers?

While NAFTA will create good, high-paying jobs for Americans, workers dislocated as a result of the NAFTA will be eligible for adjustment assistance.

In his May 1, 1991 letter to Congress, the President affirmed his commitment to providing adequately funded worker adjustment assistance that ensures that workers who may be displaced will receive "prompt, comprehensive, and effective services."

The Administration is already working with Congress and the private sector on worker adjustment assistance, and is committed to have a proposal ready when NAFTA legislation is considered by Congress — well before NAFTA enters into force.

What will happen to the U.S.-Canada Free Trade Agreement (CFTA)?

NAFTA builds upon trade liberalization begun in the CFTA, but does not erode the benefits of the CFTA.

In general, NAFTA provisions replace parallel sections of the CFTA. For example, NAFTA improves upon—and supersedes—the CFTA's provisions on rules of origin.

In other areas, NAFTA broadens the scope of the CFTA by addressing issues such as intellectual property and land transportation that were not included in the CFTA.

Govenor Hickel,

Sir, we need you to take a stand on the NAFTA.

As you may know there was an office memo draft from the Texas Govenors Office to the White House, basically stating, We are for NAFTA, but it subverts a lot of our state laws. How do we equate this as being good? This memo is in the possion of PUBLIC CITIZENS'S CONGRESS WATCH, 215 Pennsylvania Ave., S.E., Washington, D.C. 20003. (202) 546-4996. (I will include this.)

It will and is creating health problems for the U.S. and Alaska. This is being done by Mexican food that is tainted with fecial matter, metal shavings, ingesta, and chemicals such as DDT and Albin. If our Citizens or Government trys to stop shipments of these foods, Mexico can call that a barrier to trade and we will have to accept them or be fined.

This will negatively affect our fishing, mining, trucking and many of our jobs.

It will allow 18 year old kids to drive our hiways in over size trucks, (hiway upkeep will rise), and they will not be liable to our hiway safety laws or when they cross the borders, they will not be searched for drugs, aliens, etc. You can see where it is going on now, (MAQLADORA), and will be worse with NAFTA.

We need to know if you are with the people, or the Globalist

A yes vote for NAFTA is a no vote for the Represenative who gives that yes vote.

Sincerely,

John A. Pierce Sr.
1536 Gambell
Anchorage, Alaska 99501

*John A. Pierce Sr.
1536 Gambell
Anchorage, Alaska 99501*

**POISONING AMERICA:
NAFTA THREATENS U.S. FOOD STANDARDS**

Over the years, Congress and federal regulators have adopted a number of different food safety standards designed to safeguard the public. These standards protect consumers from toxic
... on their kitchen tables require labeling to help American shoppers make healthy

Over the years, Congress and federal regulators have adopted a number of different food safety standards designed to safeguard the public. These standards protect consumers from toxic pesticides on their kitchen tables, require labeling to help American shoppers make healthy choices, mandate food inspection to prevent contamination and disease, and regulate food additives and preservatives to protect public health. U.S. consumers, increasingly concerned about their health and the safety of their food, have welcomed these standards. Now, the North American Free Trade Agreement (NAFTA) may undermine these critical standards and limit Congress' ability to enact future food safety laws.

A section of NAFTA's agriculture text includes rules which threaten U.S. food safety standards. A goal of these rules is "harmonization of standards," which would reduce U.S. standards to an international lowest common denominator. Under NAFTA, federal, state and local standards more protective than named international standards if challenged by another NAFTA country, can be declared illegal barriers to trade. NAFTA requires the U.S. to pay damages to a successful challenger if the U.S. continues to enforce a successfully challenged standard. Pressure to lower standards will be great under these rules.

NAFTA Could Allow Banned Chemicals on U.S. Food Imports...

Unfortunately, the named international standards for food in NAFTA are those of the Codex Alimentarius, a Rome-based U.N. subgroup whose standard-setting process has for years involved numerous food, chemical and agribusiness companies but no representatives of health or environmental interests. Only recently have consumer groups been granted token representation in this process. Not surprisingly, many Codex standards are lower than current U.S. law. For instance, Codex allows chemicals long-banned in the U.S. — such as DDT — on grains, meat and dairy products. Fruits and vegetables are allowed to contain higher residues of many banned or severely restricted pesticides such as aldrin and heptachlor.

U.S. Standards Can Be Challenged as Illegal Trade Barriers

A challenged standard must survive a series of tests in the judgement of a dispute resolution panel, composed of trade experts. The likelihood that U.S. standards will be judged illegal trade barriers is increased by the dispute process itself, which is conducted in secret and allows for little, if any, citizen or congressional input. Despite their failings, NAFTA empowers these unelected, unaccountable panels to declare U.S. laws illegal trade barriers that must be eliminated or for which fines must be paid. NAFTA dispute resolution raises the question of why U.S. laws should be subject to second-guessing by any bodies outside the American legal system. It also places essential food safety standards at risk.

Mexico Allows Many Pesticides Banned in the U.S.

Seventeen pesticides banned in the U.S. are legal for use in Mexican agriculture (fifty-eight others are legal on some produce in the U.S., but are used in Mexico in ways which would be illegal under U.S. laws). Included among these 17 pesticides are chemicals such as Triazophos, Edifenphos, Phoxim and Pirimicarb (see chart). U.S. attempts to limit food imports contaminated with these pesticides could be challenged as illegal trade practices. Further, NAFTA requires

countries to consider using Codex standards while they are developing their own measures. NAFTA pressures the U.S. to use pesticides without following our own approval process.

Selected Pesticides Used in Mexico Which Are Illegal in the U.S.

Pesticide	Symptoms of Poisoning [EPA-540/9-88-00], 3/89)	Mexican Uses (CAO/RECD-92-140)
Triazophos	Organophosphate. Can disrupt the central nervous system. Causes nausea, diarrhea, headaches, twitching and weakness; in higher concentrations, convulsions and death. Potentially causes cancer.	Corn, cottonseed, potatoes
Difentphos	Organophosphate. See above.	Husked rice, polished rice
Phoxim	Organophosphate. See above.	Corn, rice, sorghum
Pirimicarb	Carbamate. Causes vomiting, diarrhea and blurred vision, slurred speech; in higher concentrations, depression of respiration and death.	Apples, beans (shelled, common), citrus fruit, onions, bulb onions, peaches, pecans, chilli peppers, sweet peppers, potatoes, wheat

NAFTA Will Exacerbate Existing Problems with Pesticide Enforcement

A September 1992 General Accounting Office (GAO) Report, Adulterated Imported Foods Are Reaching U.S. Grocery Shelves [GAO-RCED-92-205], found "a long-term trend of importers disregarding U.S. laws prohibiting the distribution of adulterated [containing prohibited pesticides] foods." According to the report, the U.S. Customs Service tests only 1% of imported food for residues of illegal pesticides. Even so, \$6,400,000 worth of adulterated food was identified by U.S. Customs officials. As much as a third of the food which fails U.S. Customs inspection is eventually distributed in the U.S. These numbers suggest that more than \$200,000,000 worth of contaminated food is sold to American consumers each year. The GAO also reported that "agricultural imports from Mexico account for nearly one-half of all the fresh and frozen fruits and vegetables exported to the U.S." Such imports will increase under NAFTA.

Mexico has no government agency responsible for enforcing and monitoring pesticide residues. Thus the GAO also notes that the U.S. has, in addition to its regular sampling program, a "special program to test Mexican produce for pesticide residues." This program was implemented "in response to the increasing volume of food imported from Mexico and the growing concerns about the safety of that food." NAFTA could eliminate this essential testing program as a trade barrier, as happened with meat inspection after the implementation of the 1988 Free Trade Agreement between the U.S. and Canada (CUSFTA).

"Free Trade" Agreements Have Already Weakened U.S. Food Inspection Standards

Under the deregulatory climate created by the 1988 Free Trade Agreement between the U.S. and Canada, the U.S. Department of Agriculture severely weakened border meat inspection. In 1990, William Lehman, a Department of Agriculture whistle-blower, testified that under the new rules only 1 truck in 15 is stopped for inspection and only several pre-selected samples tested. According to Lehman, the new rules also notified the shippers in advance of the shipments that were to be inspected and have resulted in "a threat to public health." Problems with the meat included "pus-filled abscesses, metal shavings embedded in the meat, ingesta, feces and obvious pathology" — all identified on shipments specially prepared by the shippers for inspection. NAFTA contains the same language on inspection as the CUSFTA and will intensify the rush to further undermine standards.

with the meat included "pus-filled abscesses, metal shavings embedded in the meat, ingesta, feces and obvious pathology" — all identified on shipments specially prepared by the shippers for inspection. NAFTA contains the same language on inspection as the CUSFTA and will intensify the rush to further undermine standards.

This fact sheet was prepared by Public Citizen's Congress Watch, 215 Pennsylvania Ave SE, Washington, DC 20003.
For more information please contact Daniel Raskin at (202) 546-4996.

I am sending this 1st draft of a pro-nafta memo from the texas' attornie general to the white house ,so you will see how our buy alaska program as well as many of our state ,health.enviromental, and safety laws

for more info call john pierce 278-2805

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INTER-OFFICE COMMUNICATION
Office of the Attorney General

TO:
FROM: 1
DATE: March 10, 1993
RE: Revision of NAFTA Position Paper

Attached please find a revision of the Texas-Mexico Border Task Force position paper now entitled "NAFTA and State Law: Impacts Upon Texas." Please review the changes made in this paper and pass your comments to Louis Escobero, including whether or not an additional meeting to discuss this paper would be helpful.

Once again, this position paper remains a draft version only, and every effort should be made to preserve its confidentiality.

Your comments and suggestions are welcome and we look forward to hearing from you.

GAC/61

Attachment

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NAFTA AND STATE LAW: IMPACTS UPON TEXAS

FOREWORD

In December of 1992, President George Bush, along with Canadian Prime Minister Brian Mulroney and Mexican President Carlos Salinas de Gortari, signed the North American Free Trade Agreement, or "NAFTA," creating the world's single-largest trading partnership. President Bill Clinton and the Congress must now craft legislation to implement the agreement.

One fact is becoming increasingly clear: NAFTA will affect state laws more than any previous international agreement to which the United States has been a party. State law is superseded by federal law and, therefore, by international agreements.

Texas and Mexico share a long history and a border that comprises fully half of the entire United States-Mexico border. Geographic proximity and cultural bonds have fueled an unprecedented growth in Texas exports to Mexico during the last few years. Texas, as Mexico's largest trading partner among the 50 states, will be enormously impacted by NAFTA.

For that reason, the Office of the Attorney General of Texas (OAG), as the primary legal office of the state, has found it imperative to conduct a detailed analysis of the potential impacts of NAFTA on the state of Texas.

The first component of that analysis is the impact of NAFTA upon state law. The result is this document. *NAFTA and State Law: Impacts Upon Texas* draft document

potential impacts of NAFTA on the state of Texas.

The first component of that analysis is the impact of NAFTA upon state law. The result is this document. *NAFTA and State Law: Impacts Upon Texas* does not purport to be an exhaustive analysis of the effects of NAFTA on all areas of state law. Nor does it discuss the social and economic ramifications of NAFTA. Rather, it focuses on the impact of NAFTA upon the state's environmental, health and safety laws because the provisions of NAFTA that could impact these particular laws are woven throughout the agreement. Environmental issues are particularly timely because of pending side agreement negotiations between the three countries.

The OAG Border Task Force will continue to analyze other areas of state law and state government, including transportation, banking, insurance law, and other subjects likely to be affected by NAFTA.

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Because I support the ratification of NAFTA, I will strive to ensure that its lasting impact on Texas and the United States is as beneficial as it is intended to be. The issues identified in this analysis must be managed through NAFTA's implementing legislation and in the proposed side agreements, where appropriate.

NAFTA will help shape the State of Texas in the 21st Century. It will impact our laws, our government, our infrastructure, our environment, and our prosperity. If we are to be more than bystanders in the implementation process, indeed, if we are to be vigilant for the future of our children, we must be diligent in our efforts to understand the full impact of the North American Free Trade Agreement upon the State of Texas.

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EXECUTIVE SUMMARY

The Office of the Attorney General has identified two broad areas in which NAFTA impacts the Texas legal system. These stem from an incompatibility between the traditional role of the states in international law and their changing roles under recent international trade agreements such as NAFTA. Measures which reflect the growing importance of the states in international trade law should be taken in order to ensure that the agreement is carried out efficiently and effectively.

The first general impact of NAFTA is its pre-emptive effect on state laws. Once approved by Congress, the agreement will supersede all conflicting state and federal laws. This includes a number of state measures previously unaffected by international legal obligations. The removal of trade barriers is necessary for the creation of a competitive marketplace, but certain steps should also be taken to preserve the ability of the states to protect the health and safety of their citizens and the environment. These include:

◆ Congress should not follow the model of a blanket pre-emption of potentially trade-restrictive state laws adopted in the legislation implementing the Canada-U.S. Free Trade Agreement, but rather, should consider some other alternative which allows for some consideration and input by interested persons or state representatives into the pre-emption process, as currently occurs under the GATT.

◆ The proposed side agreements should clarify the "necessary" standard for sanitary and phytosanitary measures under NAFTA Subchapter 7B.

◆ The proposed side agreements should clarify that non-discriminatory standards are not considered unnecessary obstacles to trade.

◆ The proposed side agreements should clarify that a risk assessment is not required in order to establish whether or not a standards-related measure is considered discriminatory or an unnecessary burden on trade under NAFTA Chapter 9.

Second, NAFTA will subject the states to international legal obligations, the states have little formal access to the institutions established by NAFTA. A new, more inclusive role should be created for the states to reflect their increasing prominence in the arena of international trade. These include:

◆ NAFTA's implementing legislation should create a dispute resolution advisory panel consisting of representatives from affected states so that the states' position can be considered prior to the decision of a dispute resolution panel.

◆ NAFTA's implementing legislation should provide resources to assist the states in complying with the provisions of NAFTA, including assistance with risk assessments and responses to trade disputes.

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ISSUES OF CONCERN

I. NAFTA may preclude state initiatives to better protect citizens and the environment.

The potential effect of NAFTA upon many state initiatives is cause for concern, as states have traditionally paved the way for increasingly stringent standards to provide better protection for citizens and the environment. NAFTA could reverse this established theme of environmental law.

First, NAFTA seeks equivalence of standards for Canada, Mexico and the United States. The simplest way to achieve equivalence is the imposition of uniform federal standards which preempt state standards. Environmental law has historically developed when a state enacts a measure more stringent than a federal mandate, and the federal government follows suit. If uniform federal guidelines are adopted in order to achieve the equivalence of standards, progress in the area of environmental regulation is threatened.

Second, health and safety standards will be subject to NAFTA's elaborate and potentially costly risk assessment criteria. It would be difficult, if not impossible, for states to consistently meet these criteria, which could have a chilling effect on state environmental measures.

For example, states are currently expressly allowed to enact more stringent requirements than those imposed by the U.S. Resource Conservation and Recovery Act ("R.C.R.A."). Under NAFTA, the states' right to impose these stricter standards may be compromised.

II. NAFTA may hamper initiatives to better protect the health and safety of citizens and the environment.

Currently, most safety standards in the United States are based to a certain extent upon the government's policy choice to provide the most protection possible to citizens. For example, if a chemical cannot be proven safe, and if there is some evidence suggesting that it is carcinogenic, then it is generally regulated to prevent risk to the greatest feasible degree.

NAFTA alters this basis for standards by requiring that measures relating to health and safety be based upon risk assessments, without adequate regard to other factors. Federal and state regulations could be challenged as unfair trade barriers if studies of the regulated substance (or practice) do not prove a link between the substance and a particular health effect.

III. NAFTA precludes states and other interested parties from participating in NAFTA's dispute resolution proceedings.

III. NAFTA precludes states and other interested parties from participating in NAFTA's dispute resolution proceedings.

NAFTA, like similar international agreements, establishes panels in order to resolve disputes

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◆ NAFTA's implementing legislation should create a panel consisting of state representatives to advise the USTR, the Committee on Sanitary and Phytosanitary Measures, and the Committee on Standards-Related Measures to ensure that the states' views are considered in the standards-harmonization process.

◆ NAFTA's implementing legislation should provide that when standards are harmonized, they are harmonized to the levels of the highest applicable state standards.

◆ The proposed side agreements should clarify that risk assessments under NAFTA Subchapter 7B may take into account policy considerations. In addition to scientific data, when evaluating challenges to a Party's health, safety and environmental measures.

The states' interest will be better served if side agreements contemplated by President Clinton include the appropriate protections outlined in this analysis. These suggestions will ensure that Texas' interests will be protected and that NAFTA will benefit both Texas and the U.S. in the manner it was intended.

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THE ECONOMIST

July 10TH 1993

A beer with the Canadians

WASHINGTON, DC

WHEN America signs an international trade agreement, what happens to the laws that have been passed in Tallahassee or Sacramento? Some state legislatures assume those laws will be threatened; and the district court ruling of June 30th made the same assumption.

In about half a dozen states, legislatures have already passed resolutions hostile to NAFTA. A particularly fierce one appeared in Minnesota earlier this year. Staffers compiled a list of 30 state laws they thought might fall victim to NAFTA, ranging from programmes to promote Minnesota farm produce to rules governing the disposal of dry-cell batteries. They asked Congress to withdraw NAFTA from the fast-track process

AMERICAN SURVEY

and take a closer look at the way the agreement might hurt state sovereignty. The governor, Arne Carlson, would have none of it, and took the unusual step of vetoing the resolution (which is only a statement of opinion). NAFTA, he argued, would bring the state economic growth and jobs; and the resolution, besides, was "loaded with speculation."

Mr Carlson is right on the first count, but probably wrong on the second. A GATT panel, ruling last year, confirmed that states' laws could be successfully challenged under trade agreements. The panel, summoned by Canada, found that laws covering the distribution of wine and beer in more than 40 states were inconsistent with international trade rules. Since the ruling, the federal government has been working with the states to change the offending laws.

How far NAFTA or the GATT could go towards overturning other state laws remains open to question. Staffers at the office of the United States Trade Representative stress that the NAFTA agreement was carefully negotiated to protect state sovereignty and to allow states, if they wish, to maintain stricter or greener standards than the federal government.

But one man's green law is another's barrier to trade; as witness another struggle between the United States and Canada over beer. In this case, the roles are reversed: the United States has been quarrelling for two years with a sub-federal government, the province of Ontario, over a tax on cans of beer. This tax, according to Ontario, encourages the use of refillable glass bottles which are better for the environment, because they do not need recycling. The United States has

slapped a retaliatory tariff on Ontario beer, pointing out that only American producers ship any quantity of beer in cans, and that Ontario does not tax soft drinks in cans produced by Canadians.

Most state officials, squeezed between assurances on one side and alarms on the other, will have to wait and see what NAFTA brings. The only certainty is that, in future lawmaking, trade concerns will have to be taken more into account. Provisions in NAFTA and the present round of GATT both require that new state proposals that may affect trade must be circulated to foreign powers for comment. For state legislators, who like to see themselves as experimenters in the laboratories of democracy, such an imposition may be quite a dampener. But it could do great things for free trade.

Weather
Today: Variable clouds, showers,
Thunderstorms, 14-24; Sat: Low 16,
Clearing; Partly sunny, low
Thunderstorms possible, High 22,
Wednesday: Temp range: 13-22,
Astr 50; Thursday: Page B2

115th Year No. 197

FRIDAY, JUNE 19, 1992

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The Washington Post

Beer Flap Comes to a Head GATT Ruling Would Cut U.S. Prices on Canadian Sales

By Stuart Averbach
Washington Post Staff Writer

A U.S.-Canadian trade tribunal over beer has taken a constitutional turn and is providing new ammunition for activists who fear that international agreements on trade threaten America's environmental, health and safety laws.

The issue comes to a head in Geneva today, when the United States has to tell the world trade body whether it will accept a ruling that could bring down the price of Canadian beer for American consumers.

That ruling, made by a panel of international trade specialists, is based largely on an interpretation of the U.S. Constitution saying the president can override state laws regulating beer and wine sales if they conflict with international trade rules.

At issue are laws in 41 states and Puerto Rico on the raising and distribution of beer and

wine that discriminate against foreign or out-of-state producers. Some laws set lower taxes for beer or wine produced in the state or by small "boutique" breweries and wineries, while others force out-of-state and foreign producers to use distribution systems that add to their costs.

U.S. trade officials said the dollar impact of those restrictions are minimal—about \$1 million—and assert that the United States has gained in the "beer wars" with Canada since an earlier ruling by another international panel attacked Canadian duties on sales of U.S. beer and wine. That decision, they said, will mean increased sales for U.S. producers.

Canadian beer sales above 1 percent of the U.S. market, with annual sales of about \$200 million, U.S. brewers hold about 2 percent of the vastly smaller Canadian market, with sales worth about \$30 million a year.

Sales traditionally have taken the lead in

See BEER, C2, C4, 1



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GATT Ruling Challenges Pricing Policy

By Bill Green, CI

passing strong environmental laws, and activists fear that if an international body is allowed to overturn state laws some of the earliest victims would be stringent health, safety and environmental rules.

In St. Gallen, a scenic site in California's Gov. Pete Wilson, said the ruling, if accepted by the United States, "threatens grossly the ability of the state of California to protect the environmental, health and economic needs of its citizens." He said the United States should not accept a "Foreign Interpretation of the U.S. Constitution."

Asks to U.S. Trade Representative Carla Hills denied that the beer ruling, by a panel convened under the General Agreement on Tariffs and Trade, will have any impact on state or federal environmental laws.

They also said GATT panel reports do not serve as precedents in future cases. But the report on the beer case clearly cites past panel findings.

A senior U.S. trade official said the United States would not block adoption of the panel report today on the

Ruling Goes Policy

...a senior aide to
 the Wilson, said the
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GATT panel reports
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 the official said the
 about beer duty
 report today on the

...grows that some state practices do
 discriminate against foreign firms. But
 he said the United States would like
 strong exceptions to the right of the
 panel to interpret the U.S. Constitu-
 tion and would not correct practices
 that GATT decided on the basis of the
 constitutional interpretation.
 "We clearly do not want the GATT
 or any GATT panel to find it can in-
 trude in our domestic political pro-
 cess," the official said. "On the other
 hand, we have to acknowledge our ob-
 ligation to adhere to nondiscrimination
 in trade treaty on both the federal and
 state level."
 "If we want to see GATT as a
 sword, we have to be prepared to fall
 on it sometimes," the official added.
 The United States, for instance, en-
 ces trade regulations to favor other na-
 tions to adopt GATT panel rulings that
 favor U.S. interests. Most recently,
 Hills has threatened the European
 Community with double tariffs on 31
 billion worth of imports because the
 EC has asked for years over a panel
 ruling favoring U.S. soft-drink firms.
 Tom Walsh, a staff attorney with
 Public Citizen-Congress Watch, said
 the beer decision proves the panel will
 and other environmentalists have been
 making about GATT. "It is basically an
 attack on the whole federal system of
 government," she said. Allowing adop-
 tion of the panel report "is a very dan-
 gerous thing for the administration to
 do. It exposes a whole other level of
 U.S. law to challenge and subvert pro-
 ceptives by GATT."

THE WALL STREET JOURNAL

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 FRIDAY, MARCH 13, 1992

GATT Finds U.S., State Laws on Beer Discriminate Against Foreign Brewers

By BRUANDO LACINCA

Staff Reporter of THE WALL STREET JOURNAL
 WASHINGTON — The General Agree-
 ment on Tariffs and Trade is poised to rule
 that numerous U.S. federal and state prac-
 tices unfairly discriminate against im-
 ported beer.
 Upholding complaints by Canada, the
 ruling, which is scheduled to be released
 Monday, declares that a preferential fed-
 eral excise tax plan for small U.S.
 brewers, and numerous tax rules and dis-
 tribution practices in 41 states and Puerto
 Rico are "inconsistent" with international
 trade rules.
 The action by GATT, the organization
 based in Geneva that polices international
 trade practices, will put strong pressure
 on the U.S. to settle a long-running "beer
 war" with Canada. GATT previously has
 ruled that Canada also has unfair restric-
 tions against beer imports, and the U.S.
 has threatened to impose sanctions unless
 those barriers are eliminated.
 The action could set a precedent, allow-
 ing foreign companies to challenge state
 laws as violations of international trade
 rules. "This is the first time that GATT
 has imposed its rules on U.S. states," says
 Peter Clark, a spokesman for the Brewers
 Association of Canada. He said that other
 countries can use the precedent as a basis
 for challenging other types of state laws,
 including those involving the environment
 and product safety.
 The beer ruling also comes on the heels
 of a fresh GATT rebuke of the U.S. for in-
 creasing protectionism. A study released
 by GATT yesterday noted that the U.S.
 is applying its anti-dumping and counter-
 vailing-duty laws against imported prod-
 ucts with increasing frequency. The auto-

ber of such U.S. actions was relatively
 small in the first half of the 1990, but has
 since "grown rapidly," according to the re-
 port.
 Although beer was deliberately ex-
 cluded from the U.S.-Canada free-trade
 agreement, the mounting tensions could
 further shake Canada's confidence in the
 pact. Two recent U.S. actions — one slap-
 ping Honda Motor Co.'s Canadian subsidi-
 ary with a bill for nearly \$17 million in
 back duties and another threatening Cana-
 dian softwood lumber with potential anti-
 dumping duties of 11.48% — have raised Cana-
 dian hackles and prompted opposition
 parties to demand a revocation of the
 pact.
 The GATT ruling condemns New York,
 Oregon, Minnesota, Wisconsin, Michigan,
 Ohio, Pennsylvania and other states for of-
 fering excise-tax breaks to local beer pro-
 ducers. It also criticizes 28 states for ex-
 empting local producers from a require-
 ment that brewers market their products
 through wholesalers. The states insist on a
 distribution role for wholesalers because it
 makes tax accounting easier, but the
 GATT panel that prepared the ruling said
 the exemptions discriminate against im-
 ports.
 Ronald Sarasin, president of the Na-
 tional Beer Wholesalers Association, wor-
 ries that the ruling throws a "serious con-
 stitutional" issue on top of others that are
 fueling the beer war. The U.S. has argued
 that the 21st Amendment to the U.S. Con-
 stitution, which revoked Prohibition, gave
 the states broad authority to regulate the
 liquor trade. But the GATT panel, citing a
 1961 Supreme Court decision, ruled that
 state laws can be overridden by other laws
 requiring the U.S. to abide by international
 obligations.

Under GATT rules, once the GATT
 Council approves the beer decision, the
 U.S. will have to dismantle the alleged
 trade barriers or offer Canada offsetting
 trade concessions. Washington could block
 a vote for two successive monthly council
 meetings. But eventually it has to abide by
 the ruling or try to finesse it by making
 peace with Canada.
 The Canadian complaint against the
 U.S. mirrors in some respects the 1990
 complaint by G. Heileman Brewing Co.
 and Stroh Brewery Co., against certain
 practices of Canada's provincial liquor
 control boards. The U.S. contends that
 minimum price requirements in British
 Columbia and Ontario, limits on the deliv-
 ery of imported beer to retail outlets and
 other restrictions effectively discriminate
 against U.S. products. So far, Stroh and
 Heileman have shown no willingness to
 back down from their complaint.
 The two U.S. beer producers "opened a
 Pandora's box" by filing their complaint,
 said Mr. Clark of the Canadian brewers'
 association. If the U.S. penalizes Canadian
 beer, Ottawa will retaliate with compar-
 able sanctions against a "high profile" tar-
 get such as California wine, he warned.
 Doug Waddell, a senior Canadian gov-
 ernment official, declined to comment on
 the latest GATT ruling on beer because, he
 said, it hasn't been made public. The Bush
 administration also won't discuss the new
 ruling until it becomes public.
 Mr. Waddell added, though, that Ottawa
 is continuing to hold talks with provincial
 government and industry officials to work
 out a plan to eliminate provincial trade
 practices that discriminate against U.S.
 beer imports. Canada has promised GATT
 that it will bring its beer marketing prac-
 tices in line with GATT rules by March 31.
 The U.S. could revoke its sanctions threat
 if it is satisfied that the plan is work-
 able.
 —Rose Tamburri in Ottawa contributed
 to this article.

by GATT yesterday noted that the U.S. is applying its anti-dumping and countervailing-duty laws against imported products with increasing frequency. The auto-

liquor trade. But the GATT panel, citing a 1981 Supreme Court decision, ruled that state laws can be overridden by other laws requiring the U.S. to abide by international obligations.

if it is satisfied that the plan is workable.

—Rose Tamburri in Ottawa contributed to this article.

HJR 20, Modifications to NAFTA Representative Kay Brown

Sponsor's Statement

This Resolution would ask the U.S. Congress to obtain modifications to the North American Free Trade Agreement in order to *protect state's rights to manage their natural resources and environment, to encourage economic development and to protect their citizen's health.*

Alaska must take a stand on NAFTA because, as currently negotiated, the agreement

- *could undermine state procurement practices that encourage the purchase of Alaska products from Alaska businesses.*
- *could threaten state economic development initiatives that offer special programs, subsidies or investment incentives to domestic industries--even fish hatcheries!*
- *could severely restrict our right to manage our resources and environment according to policies and laws enacted by Alaskans.*
- *could exempt foreign food imports from the strict standards that apply to the products of American farms.*
- *could accelerate the "de-industrialization" of America by encouraging manufacturers to take advantage of lax health and safety laws and low wages south of the border.*

Free trade, a laudable goal, cannot be achieved by sacrificing the fundamental rights of states or the protection of our people.

Statement by the AFL-CIO Executive Council

on

U.S.-Mexico Free Trade Agreement

February 20, 1991
Bal Harbour, FL

The proposed U.S.-Mexico free trade agreement would be a disaster for workers in both countries. It would destroy jobs in the United States, while perpetuating exploitation of workers and inflicting widespread damage on the environment in Mexico. The beneficiaries would be multinational corporations and large banks.

To secure the eventual passage of an agreement, the Bush Administration is pushing hard for "fast-track authority" from Congress. This procedural tactic would allow only for a simple and unconditional yes-or-no vote without the opportunity for amendment by Congress.

The strategy behind fast-track authority is plain. The White House knows that the agreement cannot withstand searching scrutiny, and it is doing its best to prevent public debate.

There is a preview of what an agreement would bring. It is the maquiladoras, the U.S.-owned plants that operate inside Mexico along the border but produce goods exported back here.

The pay averages 60 to 80 cents per hour, barely a subsistence wage. Many workers live in shacks made of packing materials, with no running water, sewers, or electricity. The air pollution and toxic waste generated by maquiladoras are among the worst in the world.

The Wall Street Journal has noted that "[the maquiladoras'] very success is helping turn much of the border region into a sinkhole of abysmal living conditions and environmental degradation."

The maquiladoras have flourished because U.S. companies have seen an opportunity to pay Mexican workers a fraction of the wages that U.S. workers receive, and to evade the standards for occupational safety, workers' compensation and environmental protection that are required here.

The supporters of a U.S.-Mexico free trade agreement say it is a "ladder to prosperity" for Mexican workers; but all of the bottom rungs are missing. The reason that U.S. corporations have established facilities in Mexico is not to promote economic development, or raise the standard of living and level of consumption there; it is to increase corporate profits.

AFL-CIO STATEMENT ON
NAFTA

Can the States Live Happily After NAFTA?

The new North American Free Trade Agreement is likely to start more arguments than it settles.

BY PENELOPE LEMOV

RECEIVED
APR 26 1993

Ans'd.....

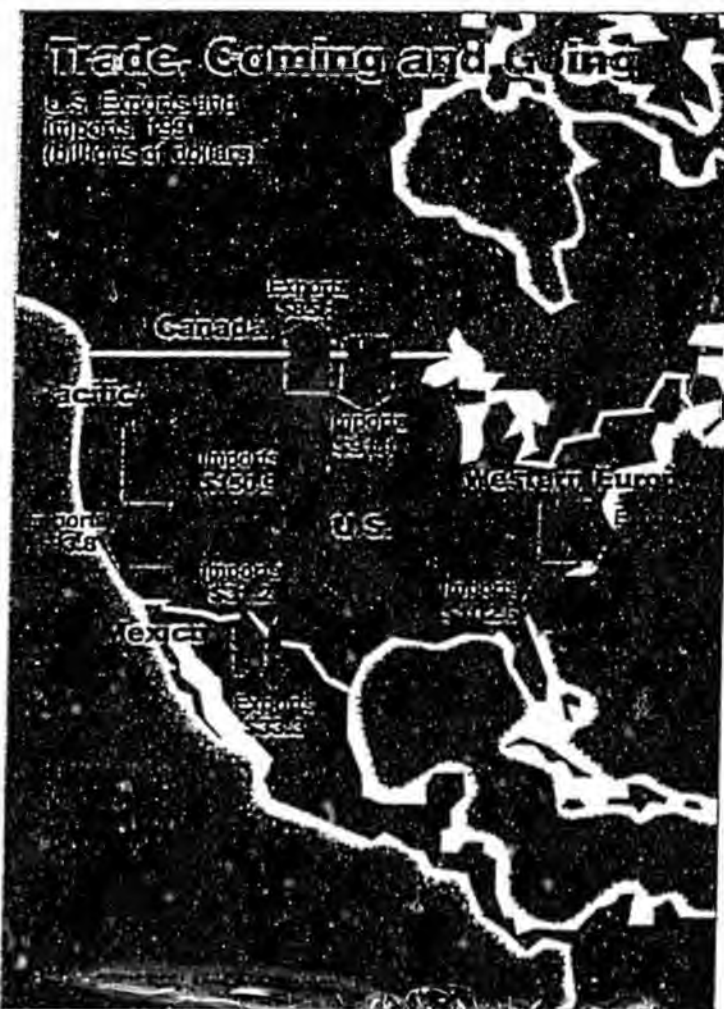
Trade-policy junkies love to tell this tale—in part because it wraps wine and beer around international intrigue, but also because it provides a clue to what lies ahead for state governments if and when the North American Free Trade Agreement goes into effect.

The story starts a few years ago, when two U.S. brewers, Heileman and Stroh's, eyed the Canadian market and hoped to start selling some beer north of the border. It turned out that the Canadian provinces had laws, dating back to the Depression, that precluded the sale of any beer that wasn't brewed there. The two American companies, citing the General Agreement on Tariffs and Trade, claimed the requirements were unfair. The U.S. government sought a ruling on the issue from an international trade panel, and when that panel rendered its decision, Canada came out the loser: It had to let the American brewers come in.

But the Canadians struck back. They studied American laws and came up with hundreds of wine and beer regulations in more than 40 states that amounted to restraint of trade. Some of those state laws were giving tax preferences to wine from local vineyards; others were requiring that beer imported into a state be delivered by a common carrier rather than on a brewer's own truck.

The Canadians took their case to an international trade panel, and, last spring, that panel ruled that most of the U.S. statutes violated the interna-

tional trade law and that the U.S. had to tell its states to repeal them or face fines and sanctions. That is what the federal government is now in the process of doing. "There'll be a lot of surprised legislators this winter," says Charles Colgan, professor of public policy at the University of Southern



Maine. "Somebody from Washington will arrive and say, 'The way in which you regulate the distribution of beer and wine in your state is now illegal, and you have to change it.'"

But the Sixpack Surprise isn't why Colgan and other trade policy people tell this story. They tell it because it may be just a pale imitation of what is

coming. NAFTA, a three-way trade deal involving the United States, Canada and Mexico, enlarges and strengthens the rules that have been in place thus far under the multinational GATT agreement. NAFTA goes far beyond imports and manufacturing. Its tentacles extend into the realm of state law on banking and insurance, regulations on health and safety, and laws protecting the environment. If Congress passes legislation implementing the trade agreement and the president signs it, NAFTA will reinforce and push forward a trend that developed out of the beer-wine case. This trade pact obligates the federal government to

an international agreement that states will be required to implement and fulfill in a wide range of areas.

This was once unthinkable by historical standards. Until the past few years, the role of the states in world trade was essentially nonexistent. International trade treaties dealt almost exclusively with federal tariffs on commodities and products. But in recent years, those agreements have been stretched to include non-tariff barriers such as licensing, subsidies and product standards—areas that fall within the traditional regulatory domain of states, not nations. This trend began to accelerate through the decade of the 1980s. Now it is a major focus of NAFTA.

Virtually every state regulates its economy in ways that are going to conflict with the agreement. Many of them require, for example, that the owners of an insurance company be residents of the state. Others

impose trucking safety standards that foreign vehicles do not necessarily meet. Most states impose requirements for banking charters that would make it extremely difficult for a Canadian or Mexican firm to enter the market.

Under NAFTA, the states will have two years to review those sorts of

restrictions. They won't be required to repeal them, but they will have to pick and choose which ones to place on a list of laws and regulations that, even if they are discriminatory, will not fall under the watchful eyes of NAFTA and the trading partners.

While there is nothing to prevent a state from keeping all of its current laws, there are risks in doing that. If states grandfather in all their laws, they won't give Canada, with its \$285 billion services market, or Mexico, with its \$146 billion services market, much incentive to open up their markets more broadly. If too many discriminatory regulations turn up on the list, a state could be seen as hostile to NAFTA and could lose out on the benefits of the agreement—the ability to participate actively in new trade markets.

And such states may find it hard to attract investment from trading partners. "You don't want to be known as a state that discriminates against any sort of investment," says Dan Caprio, a lobbyist for the state of Illinois. "The bottom line is job creation."

ENVIRONMENTAL LAWS AND regulations may be the thorniest issue of all. State governments have spent the better part of 20 years setting standards and laying down rules to protect the health and safety of their citizens and of the environment. But, as with the wine and beer statutes, such laws can be interpreted as disguised trade barriers.

The states have some protection. NAFTA stipulates that as long as an environmental regulation can be justified on the basis of scientific evidence, it cannot be considered a restraint of trade. But as armor, that is not as strong as it at first appears to be. What seems like scientific proof in Pennsylvania or Illinois may be read as nothing more than an excuse in Ottawa or Mexico City.

There is some question, for example, about recycling laws. Suppose a state approves a regulation setting the percentage of recycled material that has to be included in any copying paper that happens to be sold there. Could a Canadian company that makes paper only from virgin materials charge that such a law discriminates against it and is a hidden restraint of trade?

A state's best defense against this kind of charge is likely to be that it treats the products of other countries in the same way it treats its own, and thus cannot be discriminating. But that doesn't mean there won't be a test case on this type of issue if and when the pact is signed and goes into effect in the three countries.

Even if there is evidence to back up a regulation, states could find their environmental laws undermined. The science itself could be disputed. For instance, the U.S. and the European Community are currently at loggerheads over whether the use of artificial hormones to stimulate the growth of beef cattle has any effect on human health. Europeans say it does and refuse to import beef from those animals. The United States says that is nothing

more than an excuse to keep out competition. NAFTA does not provide any simple mechanism for resolving such disputes among the North American trading partners.

A state could also lose a scientific argument when its interests take second place to its nation's foreign policy concerns. Under NAFTA, environmental disputes with Mexico or Canada are to be handled by the federal government, and in particular, the Office of the United States Trade Representative. And that's where the states may find their interests imperiled.

One trade expert, Harry Freeman, a Washington, D.C.-based trade policy consultant, offers this scenario: Mexico charges that a California environmental regulation is not based on solid scientific evidence but is, rather, an artificial trade barrier created by the state. The argument goes before a dispute resolution panel. But California is not allowed to represent itself—the federal government argues the case.

As it turns out, the State Department in Washington is in the process of negotiating with Mexico on an unrelated

international issue, perhaps immigration or drug policy. The State Department tells the U.S. Trade Representative not to let the trade dispute get in the way of its broader diplomatic agenda. "If there's an argument with Mexico or Canada," Freeman concludes, "the federal government could sell a state down the river in the interest of foreign policy considerations."

That's why, he adds, the states "are crazy" if they don't ask Congress now, while it is writing implementing legislation to go along with the agreement, to find a way consistent with the Constitution to assure a place for the states at the dispute-settlement table.

At the very least, says Jody Thomas, a trade specialist with the National Governors' Association, there must be "some sort of formal mechanism between the fed-

eral government and the states to coordinate and consult in those matters requiring state implementation and those where state law is challenged or in dispute."

On the wine-beer issue, for instance, the U.S. Trade Representative contacted the more than 40 states involved and worked with them to develop a case. One state—Texas—sent a representative with USTR officials to Geneva when the U.S. defense was presented. But that was an informal arrangement. "For the long term," Thomas says, "we need something more established that clarifies the communication link and contact points."

So far, USTR has appointed a liaison for state and local concerns within its offices. The odds are, assuming the agreement becomes law, that whoever fills that job in the next few years is going to have an unending list of arguments to settle and tempers to soothe. And the people on the other end, in the state capitols, are going to find it a tense time as well. "We are entering a period," Charles Colgan says, "when states are about to find out they have a whole bunch of obligations they never knew they had." □

The environmental rules that state governments have spent 20 years writing could be interpreted under NAFTA as trade barriers.

FISCAL NOTE

No. 1

Bill Version: CSHJR 20 (ITT)

(H) Publish Date: 3/22/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____

Dept. Affected: None-Resolution

Title: _____

BRN: _____

An Act relating to the
North American Free Trade Agreement

Component: _____

Sponsor: _____

Rep. Brown

Requestor: _____

COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDCING:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF:Program Receipts	0	0	0	0	0	0
1006 GF:MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Walter Wilcox

Division: ITT Staff

Approved by: Chair: Bernette James

Agency: House International Trade & Tourism Committee

Phone: 465-3743

Date: 3/18/93

Date: 3/18/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

COMMITTEE COPY

For

FISCAL NOTE

Robert Wall
5-20-93
Support
HJR 20

RESOLUTION
FOR HOUSE JOINT RESOLUTION NO. 20(ITT)
OF THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY HOUSE SPECIAL COMMITTEE ON INTERNATIONAL TRADE AND TOURISM

Offered: 3/22/93
Referred: Resources

Sponsor(s): REPRESENTATIVE BROWN

A RESOLUTION

1 Relating to the North American Free Trade Agreement.

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

3 **WHEREAS** great uncertainty exists regarding the effect of the proposed North
4 American Free Trade Agreement (NAFTA) on state laws and regulations pertaining to
5 recycling, labeling, and other product and process standards; and

6 **WHEREAS** NAFTA could effectively challenge the concept of states' rights under the
7 United States Constitution by preempting state and local laws on investment, job creation,
8 consumer protection, the environment, community lending, bank regulation, and insurance; and

9 **WHEREAS** environmental protection laws and regulations of Alaska and other states
10 could be interpreted under NAFTA as trade barriers; and

11 **WHEREAS** NAFTA calls for harmonization of national and state standards, which
12 could lead to mandatory reduction of product standards to the lowest common international
13 product standards; and

14 **WHEREAS** NAFTA could potentially preclude preferential treatment of Alaska
15 residents and Alaska products in state procurement; and

16 **WHEREAS** NAFTA could limit a state's flexibility when offering special programs,
17 subsidies, or investment incentives to its domestic industries, such as fish hatcheries; and

1 **WHEREAS** the most recent estimate by the International Trade Commission is that
2 the United States could lose 170,000 jobs if NAFTA is approved; and

3 **WHEREAS** dispute resolution procedures under NAFTA are confidential and restricted
4 by federal officials, and state and local participation is absent;

5 **BE IT RESOLVED** that the Alaska State Legislature urges the President and the
6 United States Congress, before making a decision on NAFTA and not during a fast-track
7 approach to the decision, to develop a vision of international trade that safeguards the
8 constitutional and economic standing of the individual states of the United States and that is
9 based on a full assessment of the economic, environmental, and legal effects on states; and
10 be it

11 **FURTHER RESOLVED** by the Alaska State Legislature that states should be
12 included as full partners in dispute resolution under NAFTA and that states' interests should
13 be vigorously defended when disputes arise; and be it

14 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
15 Congress to obtain modifications to the North American Free Trade Agreement in order to
16 protect the existing rights of states, where not precluded by federal law, to manage their
17 natural resources and environment, to encourage their economic development, and to protect
18 their citizens.

19 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
20 United States; the Honorable Al Gore, Vice-President of the United States and President of
21 the U.S. Senate; the Honorable Robert C. Byrd, President Pro Tempore of the U.S. Senate;
22 the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable
23 Ron Brown, Secretary of the U.S. Department of Commerce; the Honorable Bruce Babbitt,
24 Secretary of the U.S. Department of the Interior, the Honorable Mike Espy, Secretary of the
25 U.S. Department of Agriculture; the Honorable Carol M. Browner, Administrator of the U.S.
26 Environmental Protection Agency; the Honorable Mickey Kantor, U.S. Trade Representative;
27 and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and
28 the Honorable Don Young, U.S. Representative, members of the Alaska delegation in
29 Congress.

HJR

64

**LETTERS SUPPORTING HJR 64: Supporting Allaska
Aerospace Development Corporation Projects**

De Witt Fields

The Honorable Carolyn L. Floyd, Mayor of the City of Kodiak

The Honorable Walter J. Hickel, Governor of the State of Alaska

Rick Knight, Samson Tug and Barge

The Honorable Jerome M. Selby, Mayor of the Kodiak Island Borough

Resolution of Support from the Kodiak Island Borough Assembly

Steven Smith, Mark Air

The Honorable Ted Stevens, U.S. Senator

Jan J. Williams, PTI Communications

P. O. Box 25
Kodiak, AK 99615
March 22, 1994

Mike Sullivan
Natural Resource Manager
Division of Land
3601 C Street
Anchorage, AK 99510-7005

Dear Mr. Sullivan:

Thankyou for your letter of March 1, 1994, informing me about the Alaska Aerospace Corporation and their intention of placing an orbital launch facility near Narrow Cape on Kodiak Island.

As far as I know, I am the only land owner other than Bill Burton in the entire area for several miles. I have five acres, US Survey No. 5703, which borders their proposal on the south.

Having been associated with this area for forty-five years, I think it is an excellent choice for the aerospace development. Knowing about the weather conditions, the temperature, and the open space, as well as the roads and communications, I would consider their choice ideal compared to any other location. There should be no interference with anything going on in the area at the present time.

My cattle run with Mr. Burton's cattle and buffalo on his ranch. Also on my five acres, I have cabins and two houses, and am continually building and improving the area as a camp site. There were approximately 150 people attending camps last year during the summer months.

I would encourage the Corporation to locate in the Narrow Cape area for the following reasons:

- (1) There are roads already built left over from WWII.
- (2) There is electrical power that comes from the Kodiak Electric Association, which is hydroelectric power with a diesel backup.
- (3) The area has the best climate on Kodiak Island with very little snow that seldom stays on the ground over a week, since it is located on the east side of the Island, where the ocean currents run in three directions, effecting the weather.
- (4) There is adequate open space.

Personally as I look toward the future, I can see nothing but an expanded business growing in leaps and bounds. An article in our paper last night told of a company that expects to launch 840 satellites that will orbit the earth at a low altitude by the year

2001. Proposed by two of the country's most accomplished high-tech entrepreneurs today, the \$9 billion project would consist of a satellite communications network that would link every spot on our globe.

If I can be of any further assistance, please contact me.

Yours truly,



De Witt Fields



*File
Kodiak*

MAYOR AND CITY COUNCIL
POST OFFICE BOX 1397, KODIAK, ALASKA 99613
TELEPHONE (907) 486-8631
FAX (907) 486-8600

February 24, 1994

Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510-0201

RE: Orbital Launch Facility

Dear Senator Stevens:

The purpose of this letter is to communicate my support for the recent decision of the Alaska Aerospace Development Corporation (AADC) to develop an orbital launch facility on Kodiak Island. The City of Kodiak welcomes the development of such a facility, which we believe will bring both economic and educational benefits to the City and its residents.

It is my understanding that AADC is considering two sites on Kodiak Island, but has not yet selected the site for the launch facility. The City has no preference for which site is chosen, and is ready to provide its assistance to AADC regardless of the final selection.

We look forward to working with AADC as it moves toward development of the launch facility. It is our hope that you will continue to support both AADC and its orbital launch facility.

Thank you.

Sincerely,

CITY OF KODIAK

Carolyn L. Floyd
CAROLYN L. FLOYD
Mayor

CLF/mhd

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 3, 1994

*The Honorable Ted Stevens
United States Senate
522 Hart Office Building
Washington, DC 20510-0201*

Dear Ted,

It is my understanding that the Alaska Aerospace Development Corporation (AADC) recently selected Kodiak Island as the site for the development of an orbital launch facility. I am writing to express my support for that decision.

The development of an orbital launch facility within the State of Alaska is a positive step towards diversification of the state's economy. It is anticipated that the launch facility will result in increased economic development within the state, including the creation of highly-skilled and high-paying jobs. It is also anticipated that the launch facility and the personnel who work there will provide the citizens of Kodiak Island with valuable educational opportunities.

For the reasons stated above, I urge your continued support of the AADC and its development of an orbital launch facility on Kodiak Island. Thank you for your consideration of this important issue.

With best regards,

Sincerely,

SJS WALTER J. HICKEL

*Walter J. Hickel
Governor*

*bcc: ✓ Mr. Pat Ladner
WJH/BPM/ec*

0101
*Support for AK Aerospace Development
Corp. Kodiak site*

FROM: SAMSON-SEATTLE, WA PK TO:

9075613339

MAR 22, 1994 5:00PM #519 P.02

SAMSON

TUG AND BARGE

ALASKAN OWNED
AND
OPERATED

March 22, 1994

Pat Lander
Alaska Aerospace
Anchorage, Alaska

Dear Pat,

Following is our rate quotation for shipping the rocket motors from Seattle to Kodiak.

The rate is based upon the shipment of two motors per sailing.

In order to keep the price down, Samson Tug and Barge would have to modify a 40 foot shipping platform with stanchions so that we can better utilize the deck space on our barges. The cost to modify each platform would be \$6,500.00, payable by the shipper. We would need two platforms to make the trip to Kodiak and back (empty) to Seattle in a six-week period. If the motors were to move more frequently, we would have to modify two more at an additional cost to you.

Our rate for shipping the motors will be \$11,500.00 per motor, and includes loading to the barge in Seattle and unloading to the first place of rest at the Kodiak dock. Marine insurance for the shipments will be provided for an additional 2% of the ocean revenue.

If Keep From Freezing service is required, and additional charge of \$.65 per hundred pounds will be charged. The shipper must supply the means to heat the crates, and the heating system must be compatible with our 220V, 3-phase generators.

The shipper is responsible to supply all required federal, state, and city permits to receive the motors at the Seattle terminal. An additional charge of \$4.00 per ton will apply for Kodiak wharfage.

All the above rates and charges are predicated upon a 36 month agreement that the shipper will ship all rocket motors via Samson Tug and Barge's service with a 5% increase per year in the ocean rate.

APR-12-94 TUE 11:00

AADC

FAX NO. 9075613339

P. 03

FROM: SAMSON-SEATTLE, WA WK TO:

9075613339

MAR 22, 1994 5:00PM #519 P.03


In addition, Samson Tug and Barge would like to remain as the primary carrier for shipments of northbound and southbound supplies, parts, and building materials, provided they are not of a time-sensitive nature.

Our barges depart Seattle every 14 days with a transit time to Kodiak of 10 days, year-round.

We are an Alaskan owned and operated common carrier headquartered in Sitka, Alaska.

Please call with any questions or comments, and thank you for the opportunity to quote on this cargo.

Sincerely,



Rick Knight
MARKETING MANAGER

MAR 23 '94 10:54

528 P02

SAMSON
TUG AND BARGEALASKAN OWNED
AND
OPERATED

March 24, 1994

Ron Sabatino
Lockheed Space Operations
1100 Lockheed WAY LSO 003
Titusville, Florida 32780

Dear Mr. Sabatino,

After further consideration, we have determined that by modifying a 40 foot shipping platform with longer stanchions, we can better utilize the deck space on our barges, thereby lowering the cost of shipping the rocket motors from Seattle to Kodiak.

The initial cost to modify each platform would be \$6,500.00, payable by the shipper. One platform would be needed per rocket motor in order to make the trip (loaded) to Kodiak and return the empty platform back to Seattle in a six week period. If the motors were to move more frequently, we would have to modify more platforms to accommodate the schedule.

Our ocean rate for shipping the motors (9'x 9'x 29'.....137,000 lbs) will be \$11,500.00 per motor. The rate includes loading to the barge in Seattle and unloading to the first place of rest at our Kodiak dock. Marine insurance will be provided for an additional 9% of the ocean charges.

If Keep From Freezing service is required, an additional charge of \$.65 per hundred pounds will be charged. The shipper must supply the means to heat the crates, and the heating system must be compatible with our 220 volt, 3-phase generation system.

The shipper is responsible to supply all federal, state, and city permits to receive the motors at our Seattle terminal. An additional charge of \$4.00 per short ton will apply for Kodiak wharfage. Seattle wharfage is included in the rate.

APR-12-94 TUE 11:01

WADC

FAX NO. 9075613309

528 P.05

MAR 23 '94 10:55


P. 05

All rates and charges are predicated upon the shipment of all rocket motors on Samson Tug and Barge, as stated in a signed agreement between shipper and carrier, over a 36 month period, with a 5% increase in the ocean rate every 12 months. In addition, Samson Tug and Barge Company would like to remain the primary carrier for all shipments of northbound supplies, parts, building materials, and related equipment, with the understanding that there may be shipments that are of a time-sensitive nature that may need to move by alternate routes.

Our barges depart Seattle every 14 days with a 10 day transit time to Kodiak. We are an Alaskan owned and operated common carrier headquartered in Sitka, Alaska.

Please call with any questions or comments, and thank you for the opportunity to quote on this cargo.

Sincerely,



Rick Knight
MARKETING MANAGER

JAN 28 1994 15:02 KODIAK ISLAND BOR.

P. 1



Kodiak Island Borough

710 MILL BAY ROAD
KODIAK, ALASKA 99615-6340
PHONE (907) 486-5736

January 28, 1994

Mr. Pat Ladner, Executive Director
Alaska Aerospace Development Corporation
3601 C Street, Suite 1400
Anchorage, AK 99503

Dear Mr. Ladner:

In response to your letter of January 24, 1994, I would like to reiterate that there is a great deal of support in the Kodiak Island community for the Chiniak site to be selected and used by your corporation as the Alaska launch facility. The Kodiak Island Borough Assembly is quite interested in seeing this project successfully completed at Chiniak and has adopted the enclosed resolution urging your board of directors to select the Chiniak site. The Assembly is willing to make reasonable tax exemptions in order to give the corporation a competitive advantage in becoming a successful launch site for commercial satellites.

You have outlined specific concerns in your letter, item one being the question of tax to Lesnoi for the land leased by the AADC. As Borough Assessor, Pat Carlson, pointed out to you during your visit, all developed property is taxable by state statute to the native corporation. Obviously, the placement of aerospace facilities on that land would meet the definition of developed property. However, the developed property would be limited to the footprint of actual utilization, which you described as including three specific sites: the launch pad, the control/office building and the assembly/warehouse building. Hence, very little of the land, perhaps five to ten acres, would be considered to be developed and thereby, taxable.

In response to item number two, our research of state law found that the Kodiak Island Borough Assembly could issue a tax exemption for the five to ten acres as economic development property under AS 29.45.050, Section M. The Assembly has indicated in the enclosed resolution that they are willing to consider an exemption, and quite frankly, I would anticipate that it would be adopted by the Assembly if your board were to select the Chiniak site. Hence, the land

JAN 28 1994 15:13 KODIAK ISLAND BORO.

P.2

Mr. Pat Lesner
Page 2
January 23, 1994

tax would not be an issue and there would be no taxation of the land. Similarly, there would be no taxation on the buildings or other property owned by the AADC, since you are a tax exempt not for profit organization.

The land surrounding the foot print and included in the "safety zone" would continue to be considered undeveloped lands as long as there is no other activity on the land, which would mean a no tax status under state and federal law. The actual term of the exemption is something that would need to be discussed when a lease agreement between AADC and Lesnoi has been completed and forwarded to the Assembly for consideration. Their commitment to a possible fifteen year tax exemption would be somewhat guided by the terms of the lease. The Assembly understands the importance of AADC being able to compete nationally and internationally for commercial launching and it is the Assembly's intent to avoid placing AADC into an unfavorable competitive situation over a relatively small amount of tax revenue.

Item three concerns an exemption for launch related equipment which would be stored at the launch site. I would anticipate no problem with providing a tax exemption for such equipment stored at the facility for launching purposes. As we have indicated to you previously, the rockets and the satellites themselves would not be subject to taxation because they would not normally be within the Kodiak Island Borough boundaries for the ninety days in which they would be identified as taxable personal property by the Borough.

Your final item deals with zoning. I don't anticipate a problem obtaining appropriate zoning for this operation. I have talked with some of the folks living in the Chiniak area and have received a considerable amount of enthusiasm for the project at this time. Since zoning issues normally center on buffer zones and incompatible uses being located too closely, and AADC must by necessity provide a large buffer and safety zone around the launch site, I do not anticipate this being an issue, particularly with the large amount of land surrounding the potential site. It should be possible for the zoning process to be completed within a three month period of time.

Having discussed these items with the Assembly, I don't anticipate any of these issues to be a problem. The Assembly is quite amenable to doing anything reasonable to help the corporation get established in Chiniak and become a successful venture for launching rockets from the Cape Chiniak Launching Facility. Based upon our research, we would conclude that there are simply no roadblocks to

JAN 28 '94 15:29 KODIAK ISLAND BOR.

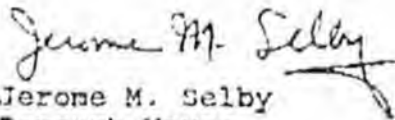
P.3

Mr. Pat Ladner
Page 3
January 28, 1994

prevent you from being able to operate the Chiniak facility with no tax impact to AADC or to Lesnoi Corporation. The only concern I have heard expressed in the community at all other than outright enthusiasm for this project is the concern for the possibility of nuclear powered satellites or some other form of nuclear materials being used at the site. Since you have assured us there would be no nuclear materials involved in any of the launches at Chiniak, this should be a non-issue as well. I feel that you will have a great deal of support for this venture from the entire Kodiak community when you have completed your community information process. If I can provide you with any additional information or further clarification, please do not hesitate to contact me at 436-9300. We look forward to working with you and hope that you and your board of directors find our island as desirable for this venture as we find it desirable to live here. The Kodiak Island Borough is ready to assist you in any way that we can if Cape Chiniak is selected as your launch site.

Sincerely,

KODIAK ISLAND BOROUGH



Jerome M. Selby
Borough Mayor

JAN 28 '94 15:24 KODIAK ISLAND BOR.

3.4

Introduced by:	Mayor Selby
Requested by:	Assembly
Drafted by:	Mayor Selby
Introduced:	01/25/94
Adopted:	01/25/94

KODIAK ISLAND BOROUGH
RESOLUTION NO. 94-04

A RESOLUTION URGING
THE ALASKA AEROSPACE DEVELOPMENT CORPORATION
TO DESIGNATE CAPE CHINIAC, KODIAK ISLAND
AS THE ALASKA LAUNCH FACILITY SITE

- WHEREAS, the Alaska Aerospace Development Corporation has been going through the process of selecting a site for the construction of an Alaska orbital launch facility; and
- WHEREAS, Cape Chiniac, Kodiak Island is one of the three finalist sites under consideration by the Corporation for the placement of the launch facility and
- WHEREAS, the Corporation has initiated negotiations with the Lesnoi Corporation to lease the land that would be necessary for development of the launch facility; and
- WHEREAS, the Cape Chiniac site is superior to the other two finalists under consideration due to the downrange open ocean to the south of Kodiak Island; and
- WHEREAS, the infrastructure necessary for bringing in the rockets and satellites for launching exists on Kodiak Island in the form of both sea and air transportation, thereby reducing the expenditure that would be required to develop a viable launch facility site at Cape Chiniac; and
- WHEREAS, the Kodiak harbor offers an ice-free port that would accommodate year-round utilization for transportation of necessary rockets and support equipment; and
- WHEREAS, the addition of scientific effort concerning communication satellites would be compatible with the growing scientific community in Kodiak dealing primarily with fisheries and related research;

JAN 25 1994 15:24 KODIAK ISLAND BOR.

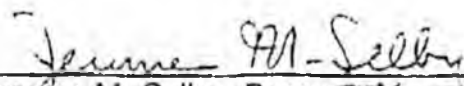
P.5

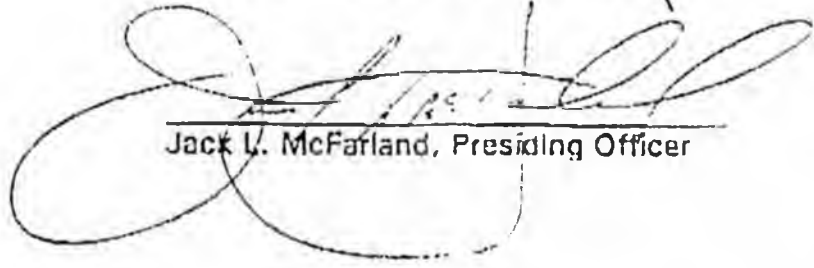
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

- Section 1: The Alaska Aerospace Development Corporation is urged to designate Cap: Chiniak as the preferred site for placement of the Alaska orbital launch facility.
- Section 2: The Kodiak Island Borough stands ready to provide what assistance it can through its resource management and community development departments to the Alaska Aerospace Corporation in bringing this facility to completion.
- Section 3: The Kodiak Island Borough Assembly is willing to consider reasonable tax exemptions and other economic considerations if the Chiniak site is selected.


ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS TWENTY-FIFTH DAY OF JANUARY, 1994

KODIAK ISLAND BOROUGH


Jerome M. Selby, Borough Mayor


Jack L. McFarland, Presiding Officer

ATTEST:


Donna F. Smith, Borough Clerk



24 March 1994

Mr. Pat Ladner
Executive Director
Alaska Aerospace Development Corp.
3601 C Street, Suite 1400
Anchorage, AK 99503

Dear Pat:

As an Alaska based air carrier, MarkAir would very much like to participate in the Alaska Orbital Launch Complex located in Kodiak, Alaska. For almost half a century, MarkAir has been a proud participant in the air transportation industry. From our beginning in Fairbanks, Alaska in 1947, MarkAir has grown and changed, and today ranks as Alaska's largest air carrier, providing scheduled passenger and cargo service to 15 destinations in the Continental United States and 145 communities throughout the state of Alaska.

The early 1990's have seen a dramatic new phase of MarkAir's growth - an expansion of service within Alaska and from Alaska to Seattle and other destinations across the U.S., including New York, Chicago, Cincinnati, Dallas/Fort Worth, Atlanta, Minneapolis, Phoenix, Washington, D.C., San Diego, Los Angeles, San Francisco, Kansas City, Denver and Las Vegas. Utilizing Boeing 737-400, 300 and Boeing 737-200 combination passenger/cargo jets MarkAir offers reliable and flexible service throughout the United States.

(807) 243-1414 • 800-544-0181 • Telex: 090-25274 MARKAIR AHG
P.O. Box 198789 • 4100 W. International Airport Road • Anchorage, Alaska 99519-0789

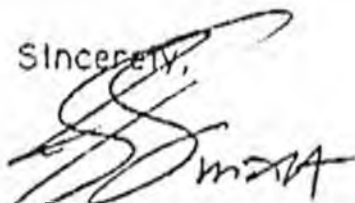
As a participant in the program MarkAir could offer the AADC the lowest fare in the markets we serve for a minimum of three years. Following are some examples of these fares:

Chicago to Anchorage - \$306.00 one way
Washington, D.C. to Anchorage - \$363.00 one way
San Francisco to Anchorage - \$254.00 one way
San Francisco to Kodiak - \$306.00 one way
San Francisco to Fairbanks - \$274.00 one way
Anchorage to Kodiak - \$92.00

As I stated, these are just a few examples of the fares MarkAir could offer. In most cases our published fares are lower than the current Government fares, however, if the Government fare happens to be lower than our published fare we would be happy to match the Government fare. Please keep in mind that these examples are current fares, and I'm sure you are aware they change quite often.

Thank you for the opportunity to discuss this partnership with you. If you are interested in MarkAir's participation, please let me know and we will be happy to draw up a contract. I can be reached at 907/266-3626.

Sincerely,



Steven Smith
Director Passenger Sales

APR-12-94 10:00 AM

HR 101

9075613339

P. 06

SENT BY: Xerox Telecopier 7020 ; 4- 6-94 ; 9:07AM ;

9074855442-

9075613339: # 1
NO. 184 202

Fax: Ladner

561-3339

From: Comm. Fuhs

United States Senate

Billie Ann
CC: WJH

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-8025

RECEIVED

APR 6 1994

- CAROL A. RICHIE, HAWAII
- FREEDY F. HOLLINGS, SOUTH CAROLINA
- J. BENNETT LUKATELICH, CALIFORNIA
- PATRICK J. LEAHY, VERMONT
- W. SASSER, TENNESSEE
- SENATOR BYRON WEST VIRGINIA, CHAIRMAN
- WALTER D. DICK, MISSISSIPPI
- ALBERT W. CLAWSON, NEW YORK
- ALVIN S. BRODER, PENNSYLVANIA
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- CHRISTOPHER S. DODD, CONNECTICUT
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- MICHAEL B. ENGLISH, KENTUCKY
- CONNIE MACE, FLORIDA
- CORRADO RUBINA, MONTANA
- MARK H. MATTHEW, OREGON
- TED STEVENS, ALASKA
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- BLAKE BORTCH, WASHINGTON
- MICHAEL B. ENGLISH, KENTUCKY
- CONNIE MACE, FLORIDA
- CORRADO RUBINA, MONTANA

JAMES H. ENGLISH, STAFF DIRECTOR
J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

March 21, 1994

The Honorable Walter J. Hickel
Governor of the State of Alaska
Office of the Governor
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Wally:

Thank you for writing to me about the Alaska Aerospace Development Corporation (AADC). I have also been contacted by Mayor Carolyn Floyd of Kodiak on this matter. Your support for the facility on Kodiak is important. My staff has been briefed by AADC on the proposed site and Mayor Jerome Selby talked to me personally about it when he was in town a few weeks ago.

I will try to support the effort on the Kodiak facility because of your urging and because of the possible economic benefits to the State that you suggest.

Thanks again for your letter. My staff has begun working to help.

With best wishes,

Cordially,

Ted Stevens
TED STEVENS

RECEIVED
APR - 1 1994

GOVERNOR'S OFFICE



3940 Arctic Blvd.
Anchorage, Alaska
99503

907 563-1237

March 28, 1994

Mr. Pat Ladner
Executive Director
Alaska Aerospace Development Corp
3601 C Street, Suite 1400
Anchorage, AK 99503

Dear Mr. Ladner:

This letter will confirm our earlier conversation.

PTI Communications is very interested in being a partner for the Kodiak Alaska Orbital Launch Complex (AOLC).

As the local exchange telephone company on Kodiak Island, PTI has resources to contribute to your project in communications engineering, construction and system design fields.

We look forward to establishing a working relationship with the Alaska Aerospace Development Corporation in order to assist the achievement of the goals established by your organization.

If you have any questions or need further information, please call me at 564-3003.

Sincerely,

A handwritten signature in cursive script that reads "Jan J. Williams".

Jan J. Williams
Customer Service Manager

cc: Bernie Murray
Chuck Stauffer

FISCAL NOTE

REQUEST:

Revision Date: April 12, 1994 Dept. Affected University of Alaska
 Title: Relating to projects of the Alaska DEPARTMENT OF Commerce
Aerospace Development Corporation BRU:
 Sponsor: House Labor & Commerce Cmt. Components: Aerospace Development Corp.
 Requestor: _____

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	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

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

ESTIMATE OF ANY CURRENT YEAR (FY 94) COSTS _____

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: _____ Chair: Bill Hudson
 Division: House Labor & Commerce Committee
 Approved By: _____
 Agency: _____

Phone: 465-4954
 Date: 4/12/94
 Date: _____

COMMITTEE COPY

STATE COMMITTEE REPORT

File

DATE: 4/19/94

FURTHER:

DATE TURNED INTO OFFICE: 4-20-94

L&C Committee considered HOUSE JOINT RESOLUTION NO. 64

Relating to the projects of the Alaska Aerospace Development Corporation for satellite ground stations and a rocket launch facility.

and recommends:

- replace with _____ CS _____ ()
- 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

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
H. L&C comm	4/13/94	✓	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Ray Shroyer NR
Steve K: No Recommendation
Deanna Linn NR
Judith de Salo

Tom Kelly - Do Pass
 Chair: Signature and Recommendation

CONFIRMATION HEARING:
BIG GAME COMMERCIAL SERVICES BOARD:
SCOTT OGAN, G. FREDERICKS, P. JOHNSON

CONFIRMATION HEARING:
BOARD OF FISHERIES: J. HANSON,
D. JACOBSEN, D. LYONS, L. EDFELT

CONFIRMATION HEARING:
BOARD OF GAME: ANNE RUGGLES,
JACK DIDRICKSON, ROGER HUNTINGTON,
ERNEST POLLEY, S. ENTSINGER,
T. JOHNSON

CONFIRMATION HEARING:
COMMERCIAL FISHERIES ENTRY COMMISSION:
BRUCE TWOMLEY

CONFIRMATION HEARING:
DNR COMMISSIONER GLEN OLDS

CONFIRMATION HEARING:
WATER AND WASTEWATER WORKS ADVISORY BOARD

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EO 86

SB 30

SB 43

SB 46

SB 67

SB 77

SB 90

SB 103

SB 104

SB 132

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SB 165

SB 210

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SB 217

SB 238

SB 240

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SB 295

SB 299

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SB 322

SB 325

SB 339

SB 341

SB 355

SB 371

SB 374

SCR 5

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SCR 14

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SCR 18

SCR 20

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SJR 38

SJR 40

HB 59

HB 76

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HB 140

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HB 213

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HB 333

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HB 446

HB 448

HB 462

HCR 16

HCR 18

HCR 21

HJR 18

HJR 28

HJR 34

HJR 49

HJR 50

HJR 55

HJR 56

HJR 59

HJR 61