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any application:

(1) For termination of an exemption, pursuant to OAC 165:55-17-5(d), within one hundred twenty (120) days after the Commission receives notice of the request;

(A) The Commission shall terminate the exemption if the request is:

(i) Not unduly economically burdensome;
(ii) Is technically feasible; and,
(iii) Is consistent with established universal service principles.

(B) Upon termination of the exemption, the Commission will establish an implementation schedule for compliance with the request.

(2) For a suspension or modification of OAC 165:55-17-5(b) or OAC 165:55-17-5(c), within one hundred eighty (180) days after receiving such application.

(g) **Failure to act on a bona fide request.** Any telecommunications service provider that makes a bona fide request for services or network elements to another telecommunications service provider, but fails to begin the necessary steps to introduce competition in the requested exchange(s) or zone(s) within twelve (12) months after satisfactory unbundling and/or interconnection agreements have been approved by the Commission, shall be liable for the reasonable expenses incurred by the requested telecommunications service provider.

165:55-17-7. Procedures for negotiation, arbitration and approval of agreements.

(a) **Agreements arrived at through voluntary negotiations.** Upon receiving a request for interconnection, services, or network elements pursuant to OAC 165:55-17-5, an incumbent LEC may negotiate and enter into a binding agreement with the requesting telecommunications service provider or providers without regard to the standards set forth in OAC 165:55-17-5 (b) and (c). The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), shall be filed with the Commission under subsection (e) of this Section.

(b) **Mediation.** Any party negotiating an agreement under this Section may, at any point in the negotiations, ask the Commission to participate in the negotiations and mediate any differences arising in the course of the negotiations. The Public Utility Division shall provide the mediator, unless otherwise directed by the Commission.

(c) **Agreements arrived at through compulsory arbitration.** During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent LEC receives a request for negotiation under this Section, the incumbent LEC or any other party to the negotiation may seek arbitration at the Commission of any open issues. Nothing in this subsection shall preclude negotiating parties from filing a joint application.

(1) **Responsibilities of the applicant with regard to the Commission.** A party that seeks arbitration from the Commission pursuant to this subsection shall, contemporaneously with the filing of its application, provide the Commission all relevant documentation concerning:

(A) The unresolved issues and the position of each of the parties with respect to those issues; and,

(B) Any other issue discussed and resolved by the parties.

(2) **Responsibility of the applicant with regard to other parties.** A party that seeks arbitration from the Commission pursuant to this subsection shall, provide a copy of the application and any documentation to the other party or parties not later than the day on which the application is filed.

(3) **Opportunity to respond.** A nonpetitioning party to a negotiation under this Section may respond to the other party's petition and provide such additional information as it wishes within twenty-five (25) days after the Commission receives the petition.

(4) **Action by the Commission.** When an application for arbitration is filed, the Commission will utilize the following procedures.

(A) The Commission will limit its consideration of any petition under this subsection, and any response thereto, to the issues set forth in the petition and in the response, if any, filed under paragraph (3) of this subsection.

(B) The Commission may require the petitioning party and the responding

party to provide such information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or unreasonably fails to respond on a timely basis to any request from the Commission, then the Commission may proceed on the basis of the best information available to it, from whatever source derived.

(C) The Commission will resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (d) of this Section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than nine (9) months after the date on which the telecommunications service provider received the request under this Section.

(5) **Refusal to negotiate.** The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a failure to negotiate in good faith.

(d) **Standards for Arbitration.** In resolving by arbitration, under subsection (c) of this Section, any open issues and imposing conditions upon the parties to the agreement, the Commission will:

(1) Ensure that such resolution and conditions meet the requirements of OAC 165:55-17-5 and applicable FCC requirements;

(2) Establish rates for interconnection, services, or network elements consistent with OAC 165:55-17-27; and,

(3) Provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(e) **Approval by the Commission and grounds for rejection.** Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the Commission, which will approve or reject the agreement, with written findings as to any deficiencies. The Commission will only reject an agreement, or any portion thereof, if it finds that:

(1) The agreement, adopted by negotiation under subsection (a) of this Section, either:

(A) Discriminates against a telecommunications service provider that is not a party to the agreement; or,

(B) The implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

(2) The agreement adopted by compulsory arbitration under this Section does not meet the requirements of OAC 165:55-17-5 or the agreement does not meet the standards in OAC 165:55-17-27.

(f) **Reservation of authority.** Notwithstanding subsection (e), the Commission, consistent with the requirements of 47 U.S.C. §253, shall enforce other requirements of State law in its review of an agreement, including requiring compliance with subchapter 13 of this Chapter.

(g) **Statement of generally available terms.** In conformance with 47 U.S.C. §252(f), SWBT may prepare and file with the Commission a statement of the terms and conditions that SWBT generally offers within Oklahoma to comply with the requirements of 47 U.S.C. §251, and the regulations thereunder and the standards applicable under this Section. In the event SWBT files such a statement, the Commission will:

(1) Approve the statement provided the statement complies with subchapter 13 of this Chapter, OAC 165:55-17-5 and OAC 165:55-17-27 and is consistent with 47 U.S.C. §253;

(2) Complete the Commission's review of SWBT's statement not later than 60 days after the date of such submission, (including any reconsideration thereof), unless SWBT agrees to an extension of the period for such review; or permit such statement to take effect.

(h) **Continued review of SWBT's statement of generally available terms.** In the event the Commission has permitted the statement of SWBT to take effect pursuant to paragraph (2) of subsection (g), the Commission may continue to review said statement after it is effective and the Commission may approve or disapprove said statement if it does not meet the requirements of paragraph (1) of subsection (g).

(i) **Duty to negotiate not affected.** The submission or approval of a statement under subsection (g) shall not relieve SWBT of its duty to negotiate the terms and conditions of an agreement pursuant to OAC 165:55-17-5.

(j) **Consolidation of proceedings.** Where not inconsistent with the requirements of the Federal Telecommunications Act of 1996, the Commission may, to the extent practical, consolidate proceedings under OAC 165:55-17-5 and OAC 165:55-17-7, in order to reduce administrative burdens on telecommunications service providers, other parties to the proceedings, and the Commission in carrying out its responsibilities under the Telecommunications Act of 1996.

(k) **Availability for public inspection.** The Commission will make a copy of each agreement approved under subsection (e) and each statement approved under subsection (g) available for public inspection and copying within 10 days after the agreement or statement is approved. The Commission will charge the fees set forth in OAC 165:5-3-1 to cover the costs of processing an application and copying.

(l) **Availability to other telecommunications service providers.** A telecommunications service provider shall make available any interconnection, service, or network element provided under an agreement approved under this Section to which it is a party, to any other requesting telecommunications service provider upon the same terms and conditions as those provided in the agreement.

165:55-17-9. **Resale of local telecommunications service**

(a) **Elimination of resale restrictions.** Except as provided in this Subchapter, each telecommunications service provider has the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services. Telecommunications services may be resold, either on a stand-alone basis, or as part of a package of services.

(b) **Allowable resale restriction.** A telecommunications service provider that obtains, at wholesale rates, a telecommunications service that is available at retail only to a specified category of end-users may only resell such service to the same category of end-users.

(c) **Incumbent LEC wholesale rates.** Each incumbent LEC has the duty to offer for resale, at wholesale rates, any telecommunications service that the incumbent LEC provides at retail to end-users who are not telecommunications service providers. Wholesale rates of services shall exclude costs attributable to marketing, billing, collection and other costs that will be avoided by the incumbent LEC in providing the service on a wholesale basis.

(d) **Automated Interfaces.** To the extent an incumbent LEC provides itself, its

affiliate, or its subsidiary automated interface for purpose of service ordering, maintenance, or repair, it shall make such interfaces available to the extent it protects customer privacy and system integrity, to other telecommunications service providers on rates, terms, and conditions that are just, reasonable and nondiscriminatory. The provision of such interfaces shall not permit access to or manipulation of the underlying systems themselves.

165:55-17-11. Unbundling of incumbent LEC networks

(a) Upon receipt of a bona fide request, each incumbent LEC shall enter into good faith negotiations to unbundle its network elements to the exchange(s) and/or zone(s) specifically requested in the bona fide requests. Said unbundling shall be available at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

(b) Subsection (a) of this Section shall not be applicable to a rural telephone company until such time as the Commission has determined that the bona fide request is not unduly economically burdensome, is technically feasible and is consistent with universal service.

(c) Unbundling issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-13. Interconnection of networks

(a) Local exchange telecommunications networks shall be interconnected, where technically feasible, so that end-users of any telecommunications service provider can seamlessly send and/or receive calls without any diminution in service quality regardless of the telecommunications service provider selected by the end-user or the called party. Such interconnection shall be made available, when requested by a competing telecommunications service provider, on an unbundled basis equally and on a nondiscriminatory basis.

(b) A telecommunications service provider shall make available any interconnection, service, or network element, provided under an agreement to which it is a party and which has been approved by the Commission pursuant to OAC 165:55-17-7, to any other requesting telecommunications service provider upon the same terms and conditions as those provided in the agreement.

(c) Interconnection issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-15. Reciprocal compensation

(a) Local telecommunications traffic shall be terminated on a nondiscriminatory basis for reciprocal compensation. The Commission will not consider the terms and conditions for reciprocal compensation to be just and reasonable unless:

(1) Such terms and conditions provide for the mutual and reciprocal recovery by each telecommunications service provider of the costs associated with the transport and termination on each telecommunications service provider's network facilities related to traffic that originates on the network facilities of the other telecommunications service provider; and.

(2) Such terms and conditions determine said costs on the basis of a reasonable approximation of the additional costs of terminating said traffic.

(b) This Section shall not be construed:

(1) To preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or.

(2) To require telecommunications service providers to maintain records with respect to the additional costs of said traffic.

165:55-17-17. Number portability and dialing parity

(a) **In General.** All telecommunications service providers subject to OAC 165:55-17-5(b)(2) have the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC. Until the date the FCC issues its regulations to require number portability, number portability will be provided through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. In addition, all telecommunications service providers shall provide dialing parity to enable an end-user to have the

ability to route automatically, without the use of any access code, their traffic to the telecommunications service provider of the end-user's designation, regardless of which telecommunications service provider originates or terminates the traffic.

(b) **Additional State Requirements.** To the extent a telecommunications service provider allows an end-user to retain the same telephone number when changing service locations within a wire center, said telecommunications service provider must allow an end-user to retain the same telephone number when changing service locations and telecommunications service providers within a wire center.

(c) **Public Numbering Resources.** Until the date by which telecommunications numbering administration guidelines are established by the FCC, the incumbent LECs shall provide nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such FCC guidelines, plan or rules is required.

(d) **Cost recovery.** The costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications service providers on a competitively neutral basis consistent with FCC rules and regulations.

165:55-17-19. Universal service

Universal service is a paramount goal of the Commission's telecommunications policy. The purpose of universal service is to ensure that all end-users have access to basic residential intrastate voice and/or relay service at a reasonable and affordable price.

165:55-17-21. Universal service fund

(a) The Commission hereby establishes a Universal Service Fund ("USF") to preserve and advance universal service in Oklahoma. Every entity which provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, for the preservation and advancement of universal service in Oklahoma, in a manner established by the Commission .

(b) Within thirty (30) days after submission of the Commission's Agency Rule

Report amending this Subchapter to the Oklahoma Legislature, the Commission shall initiate a docket for the purpose of investigating the definition of basic local service, the calculation of a subsidy of a Carrier of Last Resort, if any, required to support the goal of universal service and to determine any other telecommunications service provider's eligibility for receipt of any funding. Scheduling of the docket shall be designed to complete the Commission's evaluation of universal service within one hundred eighty (180) days of the effective date of this Subchapter, unless otherwise ordered by the Commission.

165:55-17-23. [RESERVED]

165:55-17-25. Costing standards

(a) To facilitate the Commission's ability to arbitrate agreements between telecommunications service providers when negotiations have resulted in a party requesting the Commission to arbitrate, the telecommunications service provider owning facilities that are the subject of arbitration shall provide to the Commission the following cost studies, for those services in dispute, no later than one hundred sixty (160) days after the receipt of a request for negotiation:

(1) Long-run incremental cost ("LRIC") studies and studies identifying a contribution to common costs for interconnection of facilities and network elements; or,

(2) Marketing, billing, collection and other costs that will be avoided by the telecommunications service provider for any resold services.

(b) To facilitate the Commission's ability to review and approve negotiated agreements between telecommunications service providers, both parties shall provide to the Commission Staff, within ten (10) days following the request, any information, including LRIC studies, necessary to demonstrate that the negotiated agreement does not discriminate against a telecommunications service provider which is not a party to the agreement.

(c) Nothing in this Section precludes a party from requesting production of cost studies during the negotiation process provided for in OAC 165:55-17-7, nor precludes a party from objecting to such request. Disputes related to such requests or objections may be submitted by either party to the Commission for mediation pursuant to OAC 165:55-17-7(b).

165:55-17-27. Pricing and imputation standards

(a) **Interconnection and network element charges.** The Commission will determine just and reasonable prices for network elements and interconnection of facilities and equipment as follows:

(1) Prices shall be based on the cost, determined without reference to a rate-of-return or other rate-based proceeding, of providing the interconnection or network element, whichever is applicable;

(2) Prices shall be nondiscriminatory; and,

(3) Prices may include a reasonable profit.

(b) **Charges for transport and termination of traffic.** The terms and conditions for reciprocal compensation shall be consistent with OAC 165:55-17-15 and 47 U.S.C. §252(d)(2).

(c) **Wholesale prices for telecommunications services.** Incumbent LECs shall provide wholesale rates for all retail telecommunications services sold to end-users on the basis of the retail rates, excluding the portion thereof attributable to any marketing, billing, collection and other costs that will be avoided by telecommunications service providers in providing the service on a wholesale basis.

(d) **Southwestern Bell Telephone Company imputation.** Southwestern Bell Telephone Company shall charge its affiliates, or impute to itself if using the access for provision of its own services, an amount for access to its telephone service and exchange access that is no less than the amount charged to any unaffiliated IXCs for such service.

(e) **Prohibition of subsidization.** A telecommunications service provider may not use services that are not competitive to subsidize services that are subject to competition. With respect to intrastate services, the Commission may establish any necessary cost allocations, rules, accounting safeguards, and guidelines to ensure that no such subsidization occurs.

165:55-17-29. Carrier of Last Resort/Eligible Telecommunications Carrier

Each incumbent LEC is designated as a Carrier of Last Resort for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996. For the purpose of eligibility to receive federal

universal service support under 47 U.S.C. §214(e), each Carrier of Last Resort is designated as an eligible telecommunications service provider for its respective service territory. An eligible telecommunications service provider shall, throughout its service territory:

(1) Offer the telecommunications services that are supported by Federal universal service support mechanisms under 47 U.S.C. §254(c), either using its own facilities or a combination of its own facilities and resale of another telecommunications service provider's services, including the services offered by another eligible telecommunications service provider; and,

(2) Advertise the availability of such telecommunications services and the charges therefor using media of general distribution.

165:55-17-31. [RESERVED]

165:55-17-33. Verification of compliance prior to providing certain In-Region InterLATA services

After SWBT has made application to the FCC for authorization to provide interLATA services originating in any in-region State, the Commission shall verify compliance pursuant to 47 U.S.C. §271(d)(2)(B) with the requirements contained in 47 U.S.C. § 271(c), once SWBT has met the requirements set forth in this Section.

(1) **Agreement or statement.** SWBT meets the requirements for providing certain in-region interLATA services if it has complied with either subparagraph (A) or subparagraph (B) of this paragraph with regard to its telecommunications system in Oklahoma.

(A) **Presence of a facilities-based competitor.** SWBT complies with the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under 47 U.S.C. §252 specifying the terms and conditions under which SWBT is providing access and interconnection to its network facilities, for the network facilities of one or more unaffiliated telecommunications service providers providing service to residential and business end-users. For the purpose of this subparagraph, such service may be offered by a telecommunications service provider either exclusively over their own telecommunications facilities or predominantly

over their own telecommunications facilities in combination with the resale of the telecommunications services of another telecommunications service provider.

(B) **Failure to request access.** SWBT meets the requirements of this subparagraph if, ten (10) months or more after the date of enactment of the Federal Telecommunications Act of 1996 and three (3) months before the date that SWBT makes its application to the FCC under 47 U.S.C. §271 (d)(1), no unaffiliated telecommunications service provider providing services to residential and business end-users has requested the access and interconnection described in OAC 165:55-17-11(b); provided a statement of the terms and conditions that SWBT generally offers to provide such access and interconnection has been approved or permitted to take effect by the Commission. For purposes of this subparagraph, SWBT shall be considered not to have received any request for access and interconnection if the Commission certifies that the only telecommunications service provider, or providers, making such a request have:

(i) failed to negotiate in good faith as required by 47 U.S.C. §252, or

(ii) violated the terms of an agreement approved under 47 U.S.C. §252 of said Act by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

(2) **Specific interconnection requirements.** Within Oklahoma, SWBT meets the requirements concerning specific interconnection requirements pursuant to 47 U.S.C. §271 (c)(2), if:

(A) SWBT is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A) of this Section; or,

(B) SWBT is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B) of this Section.

(3) **Competitive checklist.** The access and interconnection provided or generally offered by SWBT to other telecommunications service providers meets the requirements of 47 U.S.C. §271 (c)(2)(B), if such access and interconnection includes each of the following:

(A) Interconnection in accordance with the requirements of 47 U.S.C. §251(c)(2) and 47 U.S.C. §252(d)(1);

(B) Nondiscriminatory access to network elements in accordance with the requirements of 47 U.S.C. §251(c)(3) and 47 U.S.C. §252(d)(1);

(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT at just and reasonable rates in accordance with the requirements of 47 U.S.C. §224;

(D) Local loop transmission from the central office to the end-user's premises, unbundled from local switching or other services;

(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services;

(F) Local switching unbundled from transport, local loop transmission, or other services;

(G) Nondiscriminatory access to:
(i) 911 and E911 services;
(ii) Directory assistance services to allow the other carrier's end-users to obtain telephone numbers; and,
(iii) Operator call completion services.

(H) White pages directory listings for end-users of the other telecommunications service provider's telecommunications service;

(I) Until the date by which telecommunications numbering plan, administration guidelines, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such plan, guidelines or rules;

(J) Nondiscriminatory access to databases and associated signaling necessary for traffic routing and completion;

(K) Until the date by which the FCC issues regulations pursuant to 47 U.S.C. §251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations;

(L) Nondiscriminatory access to such services or information as are necessary to allow the requesting telecommunications service provider to implement local dialing parity in accordance with the requirements of 47 U.S.C. §251(b)(3);

1. (M) Reciproca compensation arrangements in accordance with the requirements o. 47 U.S.C. §252(d)(2); and,

(N) Telecommunications services are available for resale in accordance with the requirements of 47 U.S.C. §251(c)(4) and 47 U.S.C. §252(d)(3).

165:55-17-35. Unauthorized transfer of end-users

(a) The unauthorized change of an end-user's service to another telecommunications service provider ("slamming") is prohibited. To discourage the practice of slamming and protect end-users from unauthorized changes in their choice of telecommunications service providers, any election of a end-user to switch telecommunications service providers shall be in writing, in print type of at least 12 point.

(b) Prior to transferring an end-user to a different telecommunications service provider, the new telecommunications service provider shall obtain written authorization from the end-user; unless otherwise authorized by the Commission, after notice and hearing.

(c) Willful failure to obtain written authorization of an end-user prior to switching telecommunications service providers shall be punishable as for contempt, pursuant to 17 OS §1 et seq, in the amount of $500 for each access line for each occurrence.

HB

533

Amendment #1

TO: CSHB 533

Page 2, line 1 and 2, following "(4)":

Delete "the executive director of the Alaska Science and Technology Foundation;"

Renumber the following sub-sections on Page 2:

Line 3; (5) becomes (4)

Line 5; (6) becomes (5)

Line 12; (7) becomes (6).

Amendment #2

TO: CSHB 533

1 Page 1, line 8 and 9, following "(1)":

Delete "one state resident who has recently held or is currently holding a position in a private corporation as president,"

2 Insert "two state residents who have recently held or who are currently holding positions in a private corporation as a president,"

3 Renumber the following:

4 Page 2, line 20, following "in":

5 Delete "(a)(1), (6), and (7)"

6 Insert "(a)(1), (5), and (6)"

7 Page 2, lines 23 and 24, following "in":

8 Delete "(a)(1), (6), and (7)"

9 Insert "(a)(1), (5), and (6)"

Amendment #3

TO: CSHB 533

Page 2, following line 25:

Insert "Sec. 4. AS 14.40.831 is amended to read:"

Chair and vice-chair. [THE PRESIDENT OF THE UNIVERSITY OF ALASKA OR THE DESIGNEE OF THE PRESIDENT SHALL BE THE CHAIR OF THE BOARD OF DIRECTORS OF THE CORPORATION. THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT OR THE DESIGNEE OF THE COMMISSIONER SHALL BE VICE-CHAIR OF THE BOARD OF DIRECTORS OF THE CORPORATION.] <u>The board of directors of the corporation shall select a chair and vice-chair from among all voting members of the board of directors of the corporation.</u>

Renumber the following section on Page 2:

Change "Sec. 4. TRANSITIONAL PROVISION. to Sec. 5. TRANSITIONAL PROVISION."

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM March 20, 1996

SUBJECT: Alaska Aerospace Development Corporation
(CSHB 533(L&C), version "F")

TO: Representative Pete Kott
Attn: George Dozier

FROM: Terri Lauterbach
Legislative Counsel

Enclosed is the draft CS you requested.

I want to alert you to the fact that I made a change not specifically requested by your staff. On page 2, in sec. 2 of the enclosed draft CS, I changed the references in the first sentence of AS 14.40.826(b) relating to residency. Because of the renumbering of AS 14.40.826(a) caused by the deletion of paragraph (4) on page 2, lines 2 - 3, the reference to "(a)(6)" in sec. 2 needs to be changed to "(a)(5)" in order to continue the applicability of the nonresidency provision for the board members with federal experience. However, I also included the new (a)(6) because it is my impression that the committee does not want to require Alaska residency for the board member with an international reputation in the aerospace industry.

If I have misconstrued your intent, please let me know, and I will change the references to something else, as you direct.

TML:klb
96-215.klb

Enclosure

9-LS1737\F
Lauterbach
3/20/96

CS FOR HOUSE BILL NO. 533(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to the board of directors of the Alaska Aerospace Development Corporation."

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

* Section 1. AS 14.40.826(a) is amended to read:

(a) <u>The powers and responsibilities of the corporation are vested in the board of directors.</u> The board of directors of the corporation consists of <u>10</u> [NINE] members appointed by the governor as follows:

(1) <u>two state residents who have recently held or are currently holding positions in a private corporation as president, vice-president, chief financial officer, or chief operating officer, or a position of comparable responsibility</u> [ONE MEMBER OF THE BOARD OF REGENTS OF THE UNIVERSITY OF ALASKA];

(2) the president or the designee of the president of the University of Alaska;

(3) the director of the Geophysical Institute of the University of Alaska;

(4) [THE EXECUTIVE DIRECTOR OF THE ALASKA SCIENCE AND TECHNOLOGY FOUNDATION;

(5)] the commissioner of commerce and economic development or the commissioner's designee;

(5) four members who have held or currently hold positions in the aerospace or commercial space industry with special experience regarding federal regulatory procedures and policies involving space or operational experience [(6) TWO MEMBERS WHO HAVE EXPERIENCE AND UNDERSTANDING OF THE AEROSPACE OR COMMERCIAL SPACE INDUSTRY, ONE OF WHOM SHALL HAVE A SPECIAL EMPHASIS IN FEDERAL REGULATORY PROCEDURES AND POLICY INVOLVING SPACE]; and

(6) one nonvoting member who has recognized prominence and influence within the international aerospace industry [(7) ONE FACULTY MEMBER OF THE UNIVERSITY OF ALASKA WITH RESEARCH INTERESTS INVOLVING ROCKETS OR SATELLITES;

(8) A PUBLIC MEMBER].

* **Sec. 2.** AS 14.40.826(b) is amended to read:

(b) The members of the board of directors of the corporation described in (a)(5) and (6) [(a)(6)] of this section may be nonresidents of the state. The term of the members described in (a)(1), (5), and (6) [(a)(1), (6), (7), AND (8)] of this section is four years and those terms shall be staggered.

* **Sec. 3.** AS 14.40.826(c) is amended to read:

(c) Members of the board of directors of the corporation described in (a)(1), (5), and (6) [(a)(6) AND (8)] of this section receive $100 compensation for each day spent on official business of the corporation.

* Sec. 4. AS 14.40.831 is amended to read:

Sec. 14.40.831. CHAIR AND VICE-CHAIR. The board of directors of the corporation shall select a chair and vice-chair from among the voting members [PRESIDENT OF THE UNIVERSITY OF ALASKA OR THE DESIGNEE OF THE PRESIDENT SHALL BE THE CHAIR OF THE BOARD OF DIRECTORS OF THE

CORPORATION. THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT OR THE DESIGNEE OF THE COMMISSIONER SHALL BE VICE-CHAIR] of the board of directors of the corporation. The vice-chair presides over all meetings in the absence of the chair and has other duties the board of directors of the corporation may direct.

* Sec. 5. TRANSITIONAL PROVISION. Notwithstanding AS 14.40.826, as amended by this Act, persons serving on the board of directors of the Alaska Aerospace Development Corporation on the day before the effective date of this Act may continue to serve on the board until their current terms expire or until they are replaced by the governor under this Act, whichever is earlier.

REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

PROPOSED CHANGES TO:
AS 14.40.826 AADC BOARD OF DIRECTORS

COMPARISONS

Existing Member	Proposed Change
U of A Board of Regents	Corporate Officer-Alaska
U of A President	(same)
U of A Geophysical Institute	(same)
ASTF Exec. Director	(same)
Dept. of C&ED Commissioner	(same)
Commercial Space Industry X2	expand to 4 members
U of A Faculty Member	(delete)
Public Member	(delete)
(none)	International (non-voting)
3 Legislative Ex-officio	(same) (non-voting)

9-LS1737\C
Lauterbach
3/18/96

CS FOR HOUSE BILL NO. 533( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

"An Act relating to the board of directors of the Alaska Aerospace Development Corporation."

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

* Section 1. AS 14.40.826(a) is amended to read:

(a) The powers and responsibilities of the corporation are vested in the board of directors. The board of directors of the corporation consists of 10 [NINE] members appointed by the governor as follows:

(1) one state resident who has recently held or is currently holding a position in a private corporation as president, vice-president, chief financial officer, or chief operating officer, or a position of comparable responsibility [ONE MEMBER OF THE BOARD OF REGENTS OF THE UNIVERSITY OF ALASKA];

(2) the president or the designee of the president of the University of Alaska;

(3) the director of the Geophysical Institute of the University of Alaska;

(4) the executive director of the Alaska Science and Technology Foundation;

(5) the commissioner of commerce and economic development or the commissioner's designee;

(6) **four members who have held or currently hold positions in the commercial space industry with special experience regarding federal regulatory procedures and policies involving space or operational experience** [TWO MEMBERS WHO HAVE EXPERIENCE AND UNDERSTANDING OF THE AEROSPACE OR COMMERCIAL SPACE INDUSTRY, ONE OF WHOM SHALL HAVE A SPECIAL EMPHASIS IN FEDERAL REGULATORY PROCEDURES AND POLICY INVOLVING SPACE]; **and**

(7) **one nonvoting member who has recognized prominence and influence within the international aerospace industry** [ONE FACULTY MEMBER OF THE UNIVERSITY OF ALASKA WITH RESEARCH INTERESTS INVOLVING ROCKETS OR SATELLITES;

(8) A PUBLIC MEMBER].

*** Sec. 2.** AS 14.40.826(b) is amended to read:

(b) The members of the board of directors of the corporation described in (a)(6) of this section may be nonresidents of the state. The term of the members described in **(a)(1), (6), and (7)** [(a)(1), (6), (7), AND (8)] of this section is four years and those terms shall be staggered.

*** Sec. 3.** AS 14.40.826(c) is amended to read:

(c) Members of the board of directors of the corporation described in **(a)(1), (6), and (7)** [(a)(6) AND (8)] of this section receive $100 compensation for each day spent on official business of the corporation.

*** Sec. 4.** TRANSITIONAL PROVISION. Notwithstanding AS 14.40.826, as amended by this Act, persons serving on the board of directors of the Alaska Aerospace Development Corporation on the day before the effective date of this Act may continue to serve on the board until their current terms expire or until they are replaced by the governor under this Act, whichever is earlier.

REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

PROPOSED CHANGES TO:
AS 14.40.826 AADC BOARD OF DIRECTORS

COMPARISONS

Existing Member	Proposed Change
U of A Board of Regents	AIDEA Exec. Director
U of A President	(same)
U of A Geophysical Institute	Business-Marketing Analysis
ASTF Exec. Director	(same)
Dept. of C&ED Commissioner	(same)
Commercial Space Industry X2	(same)
U of A Faculty Member	Business-Business Develop.
Public Member	(same)

ALASKA AEROSPACE DEVELOPMENT CORPORATION

15 March 1996

Mr. Jeff Bush
Deputy Commissioner
Department of Commerce &
Economic Development
PO Box 110880
Juneau, AK 99811-0800

Dear Mr. Bush:

In response to your request for our review of HB 533, the Alaska Aerospace Development Corporation (AADC) has comments concerning the timing of this bill and recommendations on the composition of AADC's board members. Board membership changes may be warranted, however enactment of the bill in the near term could be detrimental. Also, strengthening the composition of the board membership with additional aerospace expertise is essential for continued positive growth of this important industry in the state.

There are a number of critical business initiatives currently underway between AADC and the private sector, federal government, and sister state agencies which may be interrupted and possibly damaged by hasty changes to the current AADC Board. AADC is poised to begin negotiations with a major aerospace corporation for the development and operation of the Kodiak Launch Complex (KLC). Additionally, on March 14, 1996, AADC submitted a Best And Final Offer to the Air Force for a Task Order Contract for the launch of Minuteman rockets from the KLC. The contract award is expected no later than April 10, 1996. Shortly thereafter we will negotiate the task for the first launch. These actions will require the involvement of AADC's Board of Directors since financing decisions will be made and those decisions will be followed by the release of the Request For Proposal for the KLC construction. Bringing on new board members during this critical period could result in a continuity break and loss of knowledge that ultimately leads to uninformed decision making by the new members.

AADC does feel that with proper timing the composition of its Board of Directors could be modified commensurate with the maturity of the corporation. If it is your decision to change the AADC Board of Directors, may I suggest that the attached HB 533 substitute be used.

3601 C Street • Suite 1400 • Anchorage, Alaska 99503 • (907) 561-3338 • FAX (907) 561-3339

The AADC Board of Directors are and have been outstanding. The progress AADC has made to date has been, in no small part, due to the leadership provided by its board. Therefore any changes contemplated for AADC's board must be well thought out and directed towards future growth and stability of aerospace in Alaska. The changes we have suggested in the HB 533 substitute should do that.

Since AADC is rapidly moving towards actual operations, it is imperative the AADC board have a large number of experienced and recognized aerospace members. These members will bring expanded and diverse knowledge, and will increase the credibility of Alaska's aerospace efforts. The increased recognition and credibility will measurably expand our network and enhance our customer base.

Additionally, AADC is currently working with Japan, Italy and the Ukraine on the possibility of launching their vehicles from the KLC. The Director of the Geophysical Institute, Dr. Akasofu, has played, and continues to play, a key role with developing our opportunities with Japan's aerospace industry. An additional recognized and accepted international space expert as a non-voting AADC Board of Director would further enhance AADC's international influence and business opportunities.

The non-specified board members should have qualifications in senior corporate management and be widely recognized in their particular industry.

As I have stated, the current AADC Board of Directors has done an excellent job. However, if changes are to be made, let's make quantum improvements to the AADC Board of Directors by bringing noted aerospace members and highly qualified corporate Alaska members to the AADC Board of Directors.

Sincerely,

Pat Ladner
Executive Director

State of Alaska - Boards and Commissions
Membership Roster

AEROSPACE DEVELOPMENT CORPORATION (165)

Member	Appointed	Reappointed	Term. Exp
Syun-ichi Akasofu Dir./UA Geophysical Institute... UAF Geophysical Institute Fairbanks, AK 99775-0800	08/16/91		
Eugene Cernan Industry 900 Town and Country Lane Houston, TX 77024	08/16/91	07/01/93	07/01/97
Kenneth M. Damm Public P.O. Box 1668 Kodiak, AK 99615	10/07/94		07/01/97
Steve Frank Legislature/Senator 119 North Cushman Street, Suite 213 Fairbanks, AK 99701	03/11/93		
Sharon Gagnon UA Bd of Regents 7001 Tree Top Circle Anchorage, AK 99516	08/16/91	07/01/92	07/01/96
Joe Hawkins UA Faculty University of Alaska Fairbanks Department of Electrical Engineers Fairbanks, AK 99775-1760	08/16/91		07/01/95
James Kenworthy Exec Dir/ASTF Executive Director Alaska Science & Technology Found. 4500 Diplomacy Drive Anchorage, AK 99508-5918			
Jerome Komisar UofA Pres/Pres designee 610 Kobuk Fairbanks, AK 99775	08/16/91		
Bill Paulick Commissioner/Commerce and Economic Development/or designee Development Specialist Division of Economic Development Dept. Commerce & Economic Develop. P.O. Box 110800 Juneau, AK 99811-0800	06/14/93		
Alan Austerman/Gene Therriault Legislature/Representatives State Capitol-Rooms 434/421 Juneau, AK. 99801	03/[illegible]/95		
Courtney A. Stadd Industry President Capitol Solutions 6698 Hillandale Road Chevy Chase, MD 20815	09/01/93	07/01/94	07/01/98

Sec. 14.40.826. Board of directors. (a) The board of directors of the corporation consists of nine members appointed by the governor as follows:

(1) one member of the Board of Regents of the University of Alaska;

(2) the president or the designee of the president of the University of Alaska;

(3) the director of the Geophysical Institute of the University of Alaska;

(4) the executive director of the Alaska Science and Technology Foundation;

(5) the commissioner of commerce and economic development or the commissioner's designee;

(6) two members who have experience and understanding of the aerospace or commercial space industry, one of whom shall have a

special emphasis in federal regulatory procedures and policy involving space;

(7) one faculty member of the University of Alaska with research interests involving rockets or satellites;

(8) a public member.

(b) The members of the board of directors of the corporation described in (a)(6) of this section may be nonresidents of the state. The term of the members described in (a)(1), (6), (7), and (8) of this section is four years and those terms shall be staggered.

(c) Members of the board of directors of the corporation described in (a)(6) and (8) of this section receive $100 compensation for each day spent on official business of the corporation.

(d) In addition to the members of the board of directors described in (a) of this section, two members of the legislature shall serve as ex officio nonvoting members of the board of directors. The two ex officio nonvoting members shall include one member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house.

(e) The voting and nonvoting members of the board of directors of the corporation are entitled to per diem and travel expenses authorized under AS 39.20.180. (§ 2 ch 88 SLA 1991)

Legislative history reports. — For legislative letter of intent related to the appointment of an industry advisory board by the corporation, see 1991 Senate Journal, page 1270.

REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT - HB 533

The Alaska Aerospace Development Corporation is a young organization that has energetically pursued its charge to bring a new industry and new opportunities to Alaska. Its first task was to bring talented people with significant experience in the aerospace industry to Alaska as employees and consultants. It has done that. Through their efforts the AADC has won federal contracts, generated significant industrial interest, and brought Alaska international recognition as a potential center for this major growth industry. The probability for success is extremely high and the prospects for Alaska's economy are exceptional.

AADC's focus has been on two projects. The development of a rocket launch complex in Kodiak and the location of satellite ground stations in the Fairbanks area. AADC has also pursued educational opportunities throughout the State and global warehousing and manufacturing possibilities in Anchorage.

The present board of directors of the AADC has served the State of Alaska extremely well, in directing the purposes of the corporation. The professional, technical and scientific expertise provided by the University of Alaska members of the board, have guided the startup phase of this endeavor.

As we move into the construction phase of this operation and beyond, it is imperative that the board be restructured to include specific members of the business community. These individuals should have experience in and an understanding of economic development and marketing analysis, based on their existing or previous participation in private enterprise.

FISCAL NOTE

STATE OF ALASKA BILL NO. HB 533

1996 LEGISLATIVE SESSION

Revision Date: Department: Commerce and Economic Development

Title: An Act relating to the board of directors of the AADC BRU:

Component:

Sponsor: House Community & Reg. Affairs Comm.

Requestor: House Labor & Commerce Comm COMPONENT SERIAL NO.

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: $ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jeffrey Bush, Deputy Commissioner Phone: 907-465-2500

Division: Dept. of Commerce & Economic Dev. Date: March 14, 1996

Approved by Commissioner: William L. Hensley Date: 3-14-96

Agency: Commerce and Economic Development

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(7) HOUSE COMMITTEE REPORT

Date Referred to Committee: February 28, 1996 **FURTHER REFERRALS:**

Date of Committee Action: 3-21-96

The LABOR AND COMMERCE Committee considered: **HB 533**

HOUSE BILL NO. 533 **ALASKA AEROSPACE DEVELOPMENT CORP. BOARD**

"An Act relating to the board of directors of the Alaska Aerospace Development Corporation."

recommends it be replaced with the following committee substitute CS HB 533 (L&C) [4] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) DEC 3-14-96 [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Sanders	✓			
Beverly Masek			✓	
Brian Porter	✓			
Gene Kuprina	✓			
[illegible]	✓			
[illegible] Rokeby	✓			
Pete Best	✓			

CHAIR'S SIGNATURE Pete Best _____

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION

(7) ..OUSE COMMITTEE REPO..T

Date Referred to Committee: February 28, 1996 FURTHER REFERRALS:

Date of Committee Action: 3-21-96

The LABOR AND COMMERCE Committee considered: HB 533

HOUSE BILL NO. 533 ALASKA AEROSPACE DEVELOPMENT CORP. BOARD

"An Act relating to the board of directors of the Alaska Aerospace Development Corporation."

recommends it be replaced with the following committee substitute CS HB 533 (L&C) [4] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) DEC 3-14-96 [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Sanders	✓			
Beverly Masek			✓	
Brian Porter	✓			
Gene Kubina	✓			
T. E. Brice	✓			
Rokeby	✓			
Pete Kott	✓			

CHAIR'S SIGNATURE Pete Kott _____

HB 544

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

SPONSOR STATEMENT
HB 544

When Alaska's insurance statutes were originally enacted, the term "disability" was commonly used to describe health insurance coverage. Now, the common usage of the term refers not to health insurance but to loss of income or disability income insurance.

The use of the word "disability" to denote health insurance has been confusing to everyone. Several pieces of health insurance legislation over the years have indicated that "health insurance includes disability insurance" when according to the insurance statutes "disability" insurance is defined to include "health" insurance. The public and other state governments have had this same confusion. Correcting this problem is the purpose of HB 544.

HB 544 would merely change the term "disability" to "health" to better reflect the type of insurance that is being regulated. Health insurance in this case would include disability income insurance and not the other way around. Both health insurance and disability insurance are clearly defined in the bill. HB 544 merely acts to correct the misnomer and does not change substantive law. The regulatory effect of the affected statutes will remain exactly the same. Only the names have been changed. Your support is urged.

FISCAL NOTE

STATE OF ALASKA **BILL NO.** HB 544

1996 LEGISLATIVE SESSION

Revision Date:

Department: Commerce and Economic Development

Title: Health Insurance Nomenclature

BRU: Insurance

Component: Operations

Sponsor: House Labor & Commerce Committee by Request

Requestor: House Labor & Commerce Committee

COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: $ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer Phone 465-2597

Division: Insurance Date 3/22/96

Approved by Commissioner: William L. Hensley Date 3-25-96

Agency: Commerce and Economic Development

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HB

549

STATE OF ALASKA
1996 LEGISLATIVE SESSION

FISCAL NOTE

No. 1
Version: HB 549
(H) Publish Date: 4/12/96

Revision Date:
Dept. Affected: Revenue
Title: Limited Liability Partnerships
BRU: Audit Operations
Component: Income and Excise Audit
Sponsor: (H) Judiciary
Requestor: (H) Judiciary
COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost $ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 549 would amend AS 32.05, the Uniform Partnership Act, to provide for registered limited liability partnerships in Alaska. Under existing law, AS 32.05.100, partners are jointly and severally liable for wrongful acts or omissions of a partner and jointly liable for debts and obligations of the partnership. Under the new provisions of AS 32.05.100(b) proposed in HB 549, a partner is not liable for debts, obligations, and liabilities of the partnership that arise from negligence, wrongful act, wrongful omissions, malpractice, or misconduct committed by another partner or by an employee or agent of the partnership.
The change in a partners legal liability does not change their current tax status. Basically all partnerships do not pay Alaska corporation income tax and we do not tax individual (partner income) so this bill has no effect on tax revenues.

Prepared by: Robert Bartholomew, Deputy Director
Phone: 465-2320
Division: Income and Excise Audit
Date: April 9, 1996
Approved by Commissioner: Wilson L. Condon
Date: April 9, 1996
Agency: Department of Revenue

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FISCAL NOTE

No. 2
Bill Version: HB 549
(H) Publish Date: 4/12/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date:
Title: Limited Liability Partnerships
Sponsor: House Judiciary
Requestor: House Judiciary

Department: Commerce and Economic Development
BRU: Banking, Securities and Corporations
Component: Banking, Securities and Corporations

COMPONENT SERIAL NO. 1233

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	80.0	84.0	104.0	109.0	115.0	121.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: $ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The revenue figures are based upon the current number of Limited Liability Companies that have filed with the State of Alaska under the Limited Liability Act since July 1, 1995. Using those figures, the department estimates that approximately 324 Limited Liability Partnerships (LLP) would file in FY 1997, and would increase at 5% per year. Starting in FY 99, the revenue figure anticipates additional revenue derived from biennial license renewal fees.

Prepared by: Willis F. Kirkpatrick, Director — Phone: 465-2521
Division: Banking, Securities and Corporations — Date:
Approved by Commissioner: William L. Hensley /w — Date: 4-9-96
Agency: Commerce and Economic Development

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Deloitte & Touche LLP

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THE ATTACHED STATEMENT IS FROM PETER DENN, PARTNER OF DELOITTE & TOUCHE LLP AND A REPRESENTATIVE OF THE ALASKA SOCIETY OF CPA'S.

From:
Peter Denn
Fax Number:
907 264 3181
Date:
April 16, 1996

Office:
Anchorage
Number of Pages (including this one):
7
To confirm receipt, or if you do not receive all pages, please call:
907 272 8482

HB 549 ADDRESSES THE ADDITION OF ANOTHER FORM OF BUSINESS ORGANIZATION TO THOSE THAT EXIST IN THE STATE. HB 549 WILL RECOGNIZE LIMITED LIABILITY PARTNERSHIPS (LLP) IN THE STATE OF ALASKA. I BELIEVE THE LLP WILL BENEFIT SMALL AND GROWING BUSINESSES IN ALASKA AND ENHANCE OUR BUSINESS FRIENDLY ENVIRONMENT.

SELECTING THE FORM IN WHICH TO OPERATE IS ONE OF THE MOST SIGNIFICANT DECISIONS A CLIENT STARTING A BUSINESS, OR CONTINUING AN EXISTING ONE, WILL HAVE TO MAKE WITH RESPECT TO THAT BUSINESS.

THE CHOICE OF ENTITY WILL HAVE BROAD IMPLICATIONS. IT WILL AFFECT HOW THE BUSINESS IS CONDUCTED, THE PERSONAL AFFAIRS OF ITS OWNERS, AND EVEN IMPACT ON THE BUSINESSES' EMPLOYEES. TO CONTINUE TO ATTRACT AND RETAIN BUSINESSES, IT IS IMPORTANT THAT BUSINESSES HAVE, AND ALASKA PROVIDES, A FULL CHOICE OF FORMS IN WHICH BUSINESSES MAY OPERATE.

THE LIMITED LIABILITY PARTNERSHIP (OR LLP) IS A NEW TYPE OF GENERAL PARTNERSHIP THAT IS BEGINNING TO SWEEP THE NATION. THIRTY-EIGHT (38) STATES AND THE DISTRICT OF COLUMBIA HAVE ALREADY ADOPTED LLP

LEGISLATION. TWELVE (12) ADDITIONAL STATES, NOW INCLUDING ALASKA, ARE CONSIDERING LLP LEGISLATION IN 1996.

THE LLP FORM IS APPEALING TO LOTS OF PARTNERSHIPS, BUT PARTICULARLY TO THE SEGMENT OF THE ECONOMY THAT IS GROWING THE FASTEST -- SMALL BUSINESSES AND START-UP VENTURES. THIS IS BECAUSE IT HAS LOW START-UP COSTS, IS FLEXIBLE, AND RELATIVELY EASY TO OPERATE.

LLP'S PROVIDE A FLEXIBLE FORM OF ORGANIZATION FOR SMALL BUSINESSES THAT HELPS THEM OBTAIN PARITY WITH LARGER, BETTER CAPITALIZED ORGANIZATIONS WHICH CAN AFFORD THE ANCILLARY BENEFITS OF MORE COMPLICATED BUSINESS ORGANIZATIONS. AT THE SAME TIME, THE LIMITED LIABILITY PARTNERSHIP RETAINS MANY OF THE POSITIVE ATTRIBUTES OF A GENERAL PARTNERSHIP.

FIRST, IT IS SIMPLE TO FORM.

SECOND, IT IS SIMPLE TO OPERATE – UNLIKE GENERAL CORPORATIONS, THERE ARE NO REQUIRED ARTICLES OF INCORPORATION BY-LAWS, BOARD OF DIRECTORS MEETINGS, ETC.

THIRD, IT IS TAXED LIKE A PARTNERSHIP – MEANING THAT THE TAX LIABILITY FLOWS THROUGH DIRECTLY TO THE LLP'S PARTNERS.

THE LIMITED LIABILITY PARTNERSHIP ALSO HAS ONE OF THE POSITIVE ATTRIBUTES OF MORE COMPLICATED BUSINESS FORMS – PARTIAL LIMITED LIABILITY.

INDIVIDUAL PARTNERS IN AN LLP ARE NOT PERSONALLY LIABLE FOR THE DEBTS AND OBLIGATIONS OF THE LLP ARISING OUT OF ERRORS, OMISSIONS, NEGLIGENCE, INCOMPETENCE, OR MALFEASANCE COMMITTED IN THE COURSE OF THE PARTNERSHIP BUSINESS BY ANOTHER PARTNER OR REPRESENTATIVES OF THE PARTNERSHIP NOT WORKING UNDER THEIR DIRECTION OR SUPERVISION.

PLEASE NOTE THAT **ALL PARTNERS CONTINUE TO BE PERSONALLY LIABLE** FOR THEIR OWN ACTS AND OMISSIONS AND THE ACTS AND OMISSIONS OF PERSONS OVER WHOM THEY HAVE CONTROL. ALL PARTNERS ALSO CONTINUE TO BE PERSONALLY LIABLE FOR ALL OTHER DEBTS AND OBLIGATIONS OF THE PARTNERSHIP.

THE LLP ITSELF REMAINS LIABLE FOR ALL OF THE ACTIONS OF ITS OWNERS AND EMPLOYEES AND THE LLP OWNERS REMAIN PERSONALLY LIABLE FOR THEIR

OWN ACTIONS AND THE ACTIONS OF THOSE UNDER THEIR CONTROL. BUT, BEYOND ANY INVESTMENTS IN THE LLP ITSELF, THE PERSONAL ASSETS OF THE OWNERS AND THEIR FAMILIES NEED NOT BE SACRIFICED TO PAY JUDGMENTS ARISING FROM EVENTS OR ACTIONS OVER WHICH THEY HAVE NO CONTROL.

WHILE THE OTHER FORMS OF ORGANIZATION, SUCH AS CORPORATIONS, PROFESSIONAL CORPORATIONS, AND LIMITED PARTNERSHIPS, PROVIDE FAR MORE COMPREHENSIVE PROTECTION FOR THE PERSONAL ASSETS OF A BUSINESS OWNER AND GENERALLY PROTECT OWNERS FROM ANY ACTION AGAINST THE ENTITY, THEY ALSO CARRY WITH THEM SIGNIFICANT COSTS AND REQUIRE A LEVEL OF SOPHISTICATION TO SET UP AND OPERATE.

CONSEQUENTLY, THE LIMITED LIABILITY PARTNERSHIP SHOULD APPEAL TO THE TYPES OF BUSINESSES TODAY THAT ARE OPERATING AS PARTNERSHIPS AND THAT CAN NOT AFFORD OR DO NOT HAVE THE TIME TO DEAL WITH STATUTORY AND REGULATORY REQUIREMENTS OF QUALIFYING AND OPERATING AS THESE OTHER BUSINESS FORMS.

FROM ALASKA'S PERSPECTIVE, IT WILL BE A TREMENDOUS ADVANTAGE TO OFFER BUSINESS THE LLP FORM FOR THE FOLLOWING REASONS:

THE LLP IS BUSINESS DEVELOPMENT ORIENTED. STATES AT THE FOREFRONT OF ECONOMIC DEVELOPMENT ARE THERE BECAUSE THEY OFFER AN EXPANSIVE MENU OF ORGANIZATIONAL ALTERNATIVES FOR DOING BUSINESS. THEY ENABLE THE BUSINESSES IN THEIR STATES TO BE COMPETITIVE WITH BUSINESSES FROM OTHER STATES AND ABROAD BY ENABLING THEM TO USE THE BUSINESS FORM MOST SUITABLE TO THEIR BUSINESS SITUATION.

ENACTMENT OF LLP LEGISLATION IS CONSISTENT WITH PUBLIC POLICY POSITIONS ALREADY ADOPTED BY THE STATE. LIKE ANY BUSINESS FORM, THE PARTNERS IN AN LLP ALWAYS REMAIN RESPONSIBLE FOR THEIR OWN ACTIONS, AND THE PARTNERSHIP REMAINS RESPONSIBLE FOR THE ACTIONS TAKEN ON ITS BEHALF BY EMPLOYEES OR PARTNERS.

ADOPTION OF A LIMITED LIABILITY PARTNERSHIP LAW WILL PROVIDE A FAVORABLE BUSINESS CLIMATE -- AND WILL ESPECIALLY BENEFIT THAT PORTION OF THE ECONOMY THAT HAS THE POTENTIAL TO GROW THE FASTEST, SMALL BUSINESSES AND START-UP VENTURES.

A LLP LAW WILL ENABLE ALASKA TO MAKE AVAILABLE AN ORGANIZATION FORM AVAILABLE TO 4/5 OF THE NATION AND ALLOW BUSINESSES THAT ARE RESIDENT HERE TO BETTER COMPETE WITH OUT-OF-STATE FIRMS.

FOR THESE REASONS, WE URGE YOU TO ADOPT THIS LEGISLATION.

THANK YOU OR ALLOWING ME TO APPEAR HERE. IF YOU HAVE ANY QUESTIONS, I WILL BE HAPPY TO TRY TO ANSWER THEM.

HB

550

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 550

Revision Date:
Title: Investments by Fiduciaries

Department: Commerce and Economic Development
BRU: Banking, Securities and Corporations
Component: Banking, Securities and Corporations

Sponsor: House Labor and Commerce
Requestor: House Labor & Commerce

COMPONENT SERIAL NO. 1233

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: $ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director — Phone: 465-2521
Division: Banking, Securities and Corporations — Date: 4-12-96
Approved by Commissioner: William L. Hensley — Date: 4-12-96
Agency: Commerce and Economic Development

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Jeffery D. Troutt

FAX TRANSMITTAL SHEET

FAX TO: George Dozier

FROM: Kevin J. Sullivan

DATE: 4/25/96 FAX NUMBER: 465-2819

NO. OF PAGES FOLLOWING: 4 ORIGINALS TO FOLLOW VIA MAIL: _____

RE: HB 550

****

Valley Professional Plaza - Building A

FEDERATED SECURITIES CORP.

FEDERATED INVESTORS TOWER
PITTSBURGH, PA 15222-3779
1-412-288-1900

April 25, 1996

Senator Pete Kott
Chair, Labor and Commerce Committee
Capitol Building, Room 432
Juneau, Alaska 99811

Re: HB 550

Dear Senator Kott:

Federated Investors, Inc. is a mutual fund and financial services company offering wholesale investment products and support services to institutional investors, predominately trust departments, throughout the United States and worldwide. Federated Investors has worked with fiduciaries in thirty five states to successfully enact legislation substantively equivalent to HB 550, and its predecessor SB 131. Senate Bill 131 was introduced last session, passed out of the Senate and House without opposition and was signed into law by Governor Knowles on April 4, 1996. HB 550 clarifies and updates section 4 of SB 131 (Title 13 - Guardianships and Trusts) and amends Title 6, the Alaska Banking Code, to include these same provisions.

Specifically, HB 550 defines "obligations of the U.S. Government" to expressly include "its agencies or instrumentalities." Agencies or instrumentalities of the U.S. Government include the Federal Home Administration (FHA), General Services Administration, U.S. Maritime Association, Small Business Administration (SBA), Government National Mortgage Association (GNMA), Housing and Urban Development (HUD), Farmers Home Administration (FHA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Company (FHLMC), Federal Land Bank, Central Bank for Cooperatives, Federal Intermediate Credit Banks, Student Loan Marketing Association, and Fed. Home Loan Banks.

Presently many states interpret "obligations of the U. S. Government" to include its agencies or instrumentalities while other states limit this reference to Treasury obligations. This legislation clarifies that ambiguity. Notwithstanding this legislation, such investments are only permissible if the instrument governing the fiduciary relationship so directs, requires, authorizes, or permits.

HB 550 also provides for fiduciary investment in securities of, or other interests in, other such investment companies whose portfolios are restricted to obligations of the U.S. government, as defined. This language is aimed at capturing administrative

FEDERATED SECURITIES CORP.

FEDERATED INVESTORS TOWER
PITTSBURGH, PA 15222-3779
1-412-288-1900

efficiencies and cost savings generated by very recent structural changes in the manner in which some investment companies conduct business. Known as "hub and spoke," this structure provides that an outside "hub" firm manages the pooled assets of several "spoke" institutions which maintain similar investment objectives. Advantages of this structure are derived from economies of scale. Duplication between funds is mitigated and costs are spread over a larger asset base thereby reducing administration costs to individual funds and increasing the rate of return to investors.

Section 2 of the bill amends certain provisions of Title 13 contained within section 4 of SB 131. Section 1 amends Title 6, the Alaska Banking Code, to include these same provisions. These amendments will achieve consistency between Titles 13 and 6, clearly establishing the law as it pertains to entities operating simultaneously under both titles.

I appreciate your support of this much needed legislation.

Sincerely,

J. Michael Miller
Vice President

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April 25, 1996

VIA FACSIMILE (907) 465-2819

Mr. George Dozier
Labor and Commerce Committee
Office of Representative Pete Kott
Capitol Building, Room 432
Juneau, Alaska 99811

Re: HB 550

Dear Mr. Dozier: George

Enclosed please find the sponsor statement for HB 550. In addition I have enclosed the zero fiscal note which you may have already received from the Department of Commerce & Economic Development. Willis Kirpatrick supports the bill and will testify at the hearing. HB 550 is also supported by the Alaska Bankers Association. There will only be a few minutes of testimony from Willis and myself or Rod Shipley, Trust Department Manger for the National Bank of Alaska. I understand from my conversation with Representative Kott this afternoon that the hearing will be scheduled for either tomorrow or Monday.

Please call me should you have any questions.

Sincerely,

BAXTER, BRUCE, BRAND & DOUGLAS

Kevin

Kevin J. Sullivan

KJS/gg
Enclosure

HCR

3

ALASKA STATE LEGISLATURE

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MINORITY WHIP

CHAIR
CHILDREN'S CAUCUS

HEALTH, EDUCATION
& SOCIAL SERVICES

STATE AFFAIRS

ECONOMIC TASK
FORCE

REPRESENTATIVE BETTYE DAVIS
DISTRICT 21

MEMORANDUM

TO: Representative Pete Kott
Chairman
House Labor and Commerce Committee

FROM: Representative Bettye Davis

DATE: February 7, 1995

RE: Request for a hearing on HCR3

==

I respectfully request a committee hearing of HCR3 at your earliest convenience . Attached is a sponsor statement, a copy of the bill, fiscal note and background information.

Thank you for your attention to this request.

ALASKA STATE LEGISLATURE

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MINORITY WHIP

CHAIR
CHILDREN'S CAUCUS

HEALTH EDUCATION
& SOCIAL SERVICES

STATE AFFAIRS

ECONOMIC TASK
FORCE

REPRESENTATIVE BETTYE DAVIS
DISTRICT 21

SPONSOR STATEMENT

HCR3: *A Resolution relating to correcting errors in a worker's compensation pamphlet published by the Department of Labor.*

The little blue pamphlet entitled "Workers' Compensation and You", is frequently the first information the injured worker receives.

It is essential that the information contained inside is accurate and up to date. Unfortunately the new revised edition contains misleading and unconstitutional information.

There are, particularly, the inconsistencies between statements made in the pamphlet and the requirements of the Americans with Disabilities Act in that the pamphlet misstates what information may be requested of future employees.

The correction of errors and inconsistencies may take the form of an erratum insert until the next formal revising of the pamphlet.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HCR 3

Revision Date:
Title: Workers' Compensation pamphlet errors
Sponsor: Representative B. Davis
Requestor: House Labor and Commerce

Department Affected: Labor
BRU: Workers' Compensation
Component: Workers' Compensation

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE FUND SOURCE #						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: $ 6.8

ANALYSIS: (Attach a separate page if necessary)
HCR 3 proposes that the inconsistencies and errors found in the Workers' Compensations pamphlet be corrected. The costs of correcting the pamphlet will impact FY95 only, involving one staff week to edit and rewrite the pamphlet, printing costs and an increase in postage to mail inserts in existing pamphlets. Inserts will be used until replacement pamphlets are received. All costs will be absorbed within existing FY 95 funding.

Prepared by: Paul Grossi, Director — Phone: 465-2790
Division: Workers' Compensation — Date: 1/31/95

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor — Date: 1/31/95

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ANSWERS TO COMMON QUESTIONS ABOUT ALASKA WORKERS' COMPENSATION

Workers' Compensation and You

Information for Employees

Alaska Workers' Compensation Board

Revised August 1994

INDEX

TERMS YOU SHOULD KNOW

Act means the Alaska Workers' Compensation Act; Alaska Statutes, Title 23, Chapter 30.

Adjuster means the person employed by your employer's workers' compensation insurance company, or the insurance adjusting company, who handles your claim. The adjuster pays your medical benefits and disability compensation for your employer

Board means the Alaska Workers' Compensation Board. A three-member panel of the Board hears and decides disputed claims between injured workers and their employers.

Compromise & Release Agreement means a written agreement between the injured worker and the adjuster under which some or all disputed issues are settled. The Board must review and approve the agreement before it is enforceable. By law, the Board must decide that the C&R is in the best interest of the injured worker before the Board can approve the C&R.

Controversion Notice means the written notice the adjuster sends to you and the Board when the adjuster disputes your claim. (See pages 5, 6, 8, 9, 14 and 16.)

Division means the Alaska Workers' Compensation Division, Department of Labor. The Division does not pay compensation or medical benefits to injured workers. Instead, it oversees the handling of claims and provides information.

Gross Weekly Earnings means the total gross earnings for the two calendar years before the year of injury divided by 100. (See page 7.)

Injury means the injury or illness caused by work conditions.

Insurer means the insurance company or the self-insured employer that provides workers' compensation insurance. The insurer employs or retains an adjuster to pay compensation and medical benefits to injured workers.

Medical Stability means a doctor has determined that your medical condition will not improve with further treatment, or that your disability did not show any measurable improvement for 45 days.

Permanent Partial Impairment means an injury where the worker has a permanent physical loss of the use of body parts or functions. (See page 9.)

Permanent Total Disability means an injury where the worker's disability is permanent and the injured worker will never return to work. (See page 10.)

Prehearing Conference means an informal conference held either in person or telephonically between the employee, the adjuster and a Board designated prehearing officer. The purpose of the prehearing conference is to attempt to resolve disputes between the employee and the adjuster, and if the disputes cannot be reconciled at the prehearing conference, then to prepare the case for a Board hearing.

Reemployment Benefits Administrator means the administrator employed by the Board to oversee reemployment benefits for injured workers. (See page 12.)

Spendable Weekly Wage means your gross weekly earnings less federal income taxes and social security taxes. (See page 6.)

Temporary Partial Disability means an injury where the worker's disability is temporary, but the injured worker can return to work on a part-time or restricted basis, and is earning less than full wages. (See page 9.)

Temporary Total Disability means an injury where the worker's disability is temporary and the injured worker is temporarily unable to return to work. (See page 9.)

WORKERS' COMPENSATION AND YOU

Workers' compensation is an insurance program that pays medical bills and part of lost wages to employees who are injured or become ill because of work conditions. It also pays benefits to dependents in case of death.

Employers who employ one or more workers must have workers' compensation insurance. Most employers buy insurance from licensed insurance companies who make payments and process injured workers' claims. Some employers self-insure and pay injured workers' claims directly. Your employer must get and pay for the insurance; your employer cannot require you to pay any part of it.

WHO IS COVERED

Nearly all Alaska employees are covered. Exceptions are commercial fishermen (but some fish processors on floating processing vessels are covered), contract entertainers, some taxicab drivers, part-time baby sitters, cleaning persons, harvest help and similar part-time or transient help, and certain persons employed as sports officials. Most unpaid volunteers are not covered, but volunteer ambulance attendants, firemen and policemen, and civil defense or disaster workers are covered. Sole owners and partners of businesses and executive officers of nonprofit corporations are not covered but may choose to buy coverage. Executive officers of profit-making corporations are covered but may choose to waive coverage. Although federal employees and most maritime workers are not covered under Alaska law, they may be covered under federal law. If you don't know whether you're covered, contact the Division.

INJURIES WHEN NO COMPENSATION IS PAYABLE

Compensation may not be allowed for:

1. an injury caused by the employee's willful intent to injure or kill any person;

2. an injury caused by intoxication of the injured employee or cases where the employee is under the influence of drugs unless the drugs were taken as prescribed by the employee's doctor. Drugs are defined by law as controlled substances [AS 11.71.900(4)].

WHAT IF YOU DON'T TELL THE TRUTH

There are strict penalties for not telling the truth. When you fill out applications for work, be sure to answer questions about your health truthfully. *If you lie about your health when you apply for a job, you may not be able to get workers' compensation benefits if you get hurt* (AS 23.30.022).

Information about injuries filed with the Division is available to the public.

WHAT TO DO IF YOU ARE INJURED

1. If needed, get first aid or medical care immediately.

2. Promptly tell your supervisor, your employer or "the office," about the injury. You must give written notice to your employer and the Board within 30 days after the accident or when you think you have an illness caused by work conditions. The Board provides the "Report of Occupational Injury or Illness" (form 6101) for this purpose. Get the form from your employer or the Division. Complete your portion of the form and give all the copies to your employer. After your employer has completed the employer's portion, your employer will give you the yellow and green copies. If your employer will not give you a form, contact the Division.

3. Choose one licensed doctor you want to treat you. Give the doctor your employer's official name and address and the adjuster's name and address. Ask your doctor to report promptly to the adjuster and the Board. Promptly tell the adjuster your doctor's name and address.

4. If you want to change to a different treating doctor, you may do so. However, before you change doctors, you must tell the adjuster that you are making the change. If your treating doctor refers you to a specialist, this is not a change of doctors. *If you change doctors more than once without the adjuster's written agreement, you must pay the doctor's bills.*

5. Keep receipts for medicine, actual transportation expenses (including mileage) and other costs for your medical care. Give copies of the receipts and the mileage record to the adjuster for repayment. *If you do not keep receipts, you may not be entitled to reimbursement.*

WHAT *NOT* TO DO IF YOU ARE INJURED

1. *Do not make false statements.* Alaska Statute 23.30.250 states: "A person who willfully makes a false or misleading statement or representation for the purpose of receiving or denying a benefit payment under this chapter is guilty of theft by deception as defined in AS 11.46.180 and is punishable as provided in 11.46.120-11.46.150."

Upon conviction of theft by deception, you may be punished by a fine up to $50,000, imprisonment up to 10 years, or both.

2. Do not slow recovery by refusing to follow your doctor's instructions, refusing needed treatment, or harming your condition in any way. If your actions slow your recovery, compensation payments may stop.

FILLING OUT THE INJURY REPORT (FORM 6101)

1. Write down your employer's, the insurer's, and the adjuster's official name and address. Your employer must post the notice of insurance or self-insurance in three places where employees can easily see it. If this information is not posted, or if your employer will not give it to you, contact the Division.

2. Write down your supervisor's, foreman's or boss's name. Also write down the names of the people who saw your accident or the work conditions that may have caused your illness.

3. If your injury keeps you from working more than three calendar days, complete the green copy of the injury report. Attach copies of your W-2 forms, wage stubs, or other written records proving your earnings for the two calendar years before the injury but not the year of the injury.

4. Answer all questions about dependents fully and truthfully.

5. Send the completed form and attached wage proofs directly to the adjuster. *Do not send them to the Board or the Division.* The adjuster uses this information to figure your weekly compensation rate. If you were vested in a qualified pension or profit-sharing plan at the time of injury, the amount of employer contributions to the plan in the two years before injury may be used in figuring your compensation rate. Send the adjuster proof of employer contributions when possible.

6. Make every possible effort to get well and return to work quickly.

7. Immediately tell the adjuster when you move, return to work, start receiving unemployment benefits, or file for social security benefits.

8. Contact the Division if the adjuster refuses to pay you what you think you should get.

HOW THE PROCESS WORKS

Always complete an injury report (form 6101) even if you are not immediately disabled. By doing so, you will have a record of the injury should you later become disabled. If you don't want to report the accident because you are concerned that you will get into trouble with your employer, remember it is illegal for your employer to discriminate against you for reporting an injury or receiving benefits. You have the right to sue your employer if you believe that happened.

If your doctor says you are disabled, and you worked more than six months in the two calendar years before the year of your injury, you will receive disability benefits based on your earnings in the two calendar years before the year of the injury. For example, if you are injured in 1994, your earnings in 1992 and 1993 will be used to determine the weekly compensation rate you will receive while you are disabled. However, if you worked less than six months during those two years, your weekly compensation rate is based on your work history.

The adjuster initially figures your compensation rate. If you disagree with the rate, discuss it with the adjuster, and then with the Division if you still have questions.

The adjuster first decides if you are disabled under the Act. The adjuster will make this decision based on doctors' reports. If you are disabled, the adjuster will send you temporary total disability payments every 14 days during your disability.

Eventually, your doctor may decide you have a permanent impairment and will give you an impairment rating. If the adjuster agrees with the doctor's rating, the adjuster will make a lump sum payment of permanent partial impairment benefits to you, unless you are in a reemployment program, then you will be paid every 14 days at your weekly compensation rate.

If your permanent impairment prevents you from doing the job you held at the time of injury, you may be eligible for reemployment benefits. You must request benefits from the Reemployment Benefits Administrator within 90 days after you report your injury to your employer. If you miss this deadline, contact the Division. Sometimes the deadline can be waived.

When the Reemployment Benefits Administrator receives a doctor's report indicating you may be unable to return to work, the Reemployment Benefits Administrator will assign a reemployment specialist to contact you and evaluate you. After reviewing your work history, training and current physical abilities, the specialist will make a recommendation to the Reemployment Benefits Administrator about your eligibility for reemployment benefits. The Reemployment Benefits Administrator will then decide if you are eligible to be retrained. You will get a letter telling you whether you are eligible for reemployment benefits.

If you are eligible, a reemployment specialist will help you in the retraining process. You can contact the Reemployment Benefits Administrator at the Division if there are any problems.

If the Reemployment Benefits Administrator finds you ineligible for reemployment benefits, you have the right to appeal the decision to the Board. You will lose your right to review if you do not file a written appeal within 10 days after the Reemployment Benefits Administrator's decision. If you make a timely appeal, a Board hearing will be scheduled. At the Board hearing, you may present your case yourself, or you can have an attorney do it for you. The Board will listen to your testimony and to that of the adjuster. If the Board agrees with the Reemployment Benefits Administrator's decision, you have the right to appeal to the Alaska Superior Court.

If the adjuster denies you compensation and benefits, the adjuster will send you a controversion notice (form 6105). Read this notice carefully. It explains which benefits the adjuster will not pay and the reasons for the denial. It also tells you how to file a written claim for benefits if you disagree with the adjuster's denial.

Before you file a written Application for Adjustment of Claim (form 6106), contact the adjuster to make certain the adjuster has all your medical information. Get answers to any questions you have about the denial of benefits. The adjuster may change its decision and decide to pay you. If you still disagree with the adjuster, contact the Division. There is a possibility the Division can help you resolve your problem without the necessity of a Board hearing. If a Board hearing is necessary, you must file a written claim for the benefits (form 6106) to which you believe you are entitled. Fill the form out completely and truthfully. Then file it with the Division. Remember that there are time limits for filing your application. Make sure you meet those limits.

The Division will process your application and send a copy to your employer and adjuster. They should respond to your application with a written answer.

You may represent yourself or you may get an attorney to represent you. Either way, you have the right to a hearing before the Board. Before the Board hearing, you may request a prehearing conference to learn what needs to be done to get your case ready for a Board hearing and to be sure you and the adjuster have submitted the necessary documents to the Board. Depending upon benefit you are requesting, it may be necessary to include wage and employment records, medical or reemployment reports, depositions, and other documents the parties want the Board to consider at the Board hearing.

When you are ready, you must request a Board hearing on a form called Affidavit of Readiness for Hearing (form 6107). If the adjuster does not oppose the affidavit, a Board hearing will be scheduled within 60 days.

On the day of the Board hearing, a three-member panel of the Board will listen to the evidence and legal arguments. All witnesses are sworn in, and the entire Board hearing is recorded.

Usually, the Board panel will listen to your testimony and your witnesses first, and then testimony from witnesses for your employer. After the Board hearing is done, and all necessary evidence is in the record, the Board panel will decide whether to grant or deny your request for benefits. The Board panel is required to issue a written decision and order within 30 days after the hearing record closes.

If the Board panel grants you benefits, the adjuster must pay you the benefits awarded within 14 days, unless a stay is granted by the Alaska Superior Court. If the adjuster fails to pay timely, a 25% penalty on the benefits awarded could be assessed and paid to you.

If the Board panel denies your request for benefits, you have 30 days to request reconsideration, or to obtain a stay or file an appeal with the Alaska Superior Court. You also have one year from the date of the Board decision and order to ask for modification due to mistake of fact or change of condition.

WHEN YOUR CLAIM WILL BE ACCEPTED OR DENIED

When the adjuster gets the injury report from your employer, it investigates the claim. Within 21 days after your employer knows about the injury, the adjuster must start compensation payments or deny your claim (see How Compensation Payments Are Made on page 8). If the adjuster denies your claim, it sends a controversion notice to you and the Board. The notice tells you how to file a written claim and how you can ask for a hearing before the Board.

HOW TO COMPUTE YOUR COMPENSATION RATE

Your weekly compensation rate is 80% of your spendable weekly wage but no more than the maximum weekly compensation rate and no less than the minimum weekly compensation rate.

Spendable Weekly Wage. Your spendable weekly wage is figured by subtracting federal income taxes and social security taxes from your gross weekly earnings. Your federal income tax for this purpose is based on the number of dependents you may legally claim under the Internal Revenue Service (IRS) Code. Even if you have fully paid your social security tax at the time of the injury, the social security tax is included in figuring your spendable weekly wage. *Your marital and dependency status on the date of the injury fixes your spendable weekly wage for the entire time of your disability even if your status subsequently changes.*

Gross Weekly Earnings. Your gross weekly earnings are figured by dividing 100 into your total gross earnings for the two calendar years before the year of injury. Gross earnings include:

1. wages paid by all your employers before deductions,

2. wages you have chosen to defer,

3. employer contributions into a qualified pension or profit-sharing plan during the two plan years before the injury if you were vested in the plan at the time of injury, and

4. the value of taxable, employer-provided room and board as long as including this value does not raise your gross weekly earnings above the Alaska state average weekly wage at the time of injury.

If you were unemployed for 18 months or more during the two calendar years before the year of your injury, your gross weekly earnings will be figured based on your work history and the nature of your work at the time of injury. You and the adjuster may agree to change your gross weekly earnings under these circumstances, or you or the adjuster may ask the Board to set your gross weekly earnings by asking for a Board hearing.

Maximum Weekly Compensation Rate. The highest weekly compensation rate an injured worker may receive is $700. *Therefore, your weekly compensation rate is 80% of your spendable weekly wage or $700, whichever is lower.*

Minimum Weekly Compensation Rate. Until you give the adjuster proof of past earnings, the adjuster does not have to pay you more than $110 per week. Once proof of past earnings has been received, the adjuster must pay you at least $154 or your spendable weekly wage, whichever is lower. There are exceptions under AS 23.30.175 and 8 AAC 45.210 where the adjuster may pay less than the minimum rate.

Non-resident Weekly Compensation Rate. If you move from Alaska or live outside Alaska while receiving compensation payments or death benefits, the adjuster may pay you at the non-resident weekly compensation rate. You will get payments at your Alaska weekly compensation rate only if you left Alaska for medical or reemployment services not available in Alaska.

Your non-resident weekly compensation rate is figured by adjusting your Alaska weekly compensation rate by the following formula:

$$\text{Alaska Weekly Compensation Rate} \times \frac{\text{Area of Residence Cost of Living}}{\text{Alaska Cost of Living}} = \text{Non-Resident Weekly Compensation Rate}$$

The Board publishes a yearly list of the cost-of-living figures for Alaska and various areas in the rest of the United States. If you or the adjuster thinks there is a big difference between the actual cost of living in the area where you live and the cost-of-living figure on the list, you or the adjuster may ask the Board to hold a hearing. The Board bases its decision upon the cost of living in your area, not your own particular cost of living.

FIGURING YOUR WEEKLY COMPENSATION RATE

Example One. An employee earning $750 per week is injured on December 31, 1993. The employee immediately tells the employer, fills in the employee portion of the Report of Occupational Injury or Illness (form 6101) and keeps the green and yellow copy from the report after the employer completes it. On the fourth day after the injury, the employee is still unable to work. The employee fills in the bottom portion of the green copy and sends 1991 and 1992 W-2 forms to the adjuster, reporting the following information: The employee is married and has two young children. The employee's 1991 gross earnings were $36,400 and 1992 gross earnings were $37,700. The employee worked 22 months in those years.

The adjuster adds $36,400 and $37,700 for $74,100 in total gross earnings for the two calendar years before the injury. The adjuster then divides 100 into $74,100 for gross weekly earnings of $741. The adjuster next looks at the Board's 1993 rate tables, which have already figured the weekly compensation rate of a married person with two children and gross weekly earnings of $741 by subtracting federal income taxes and social security taxes from $741 and multiplying by 80%. According to the Board's 1993 rate tables, the weekly compensation rate for such a person would be $494.50.

On April 15, 1994, the employee, who is still disabled, gets divorced. Although the employee is no longer married, the weekly compensation rate remains at $494.50.

Example Two. An unmarried employee earning $300 per week is injured on July 1, 1994. The employee sends the green copy to the adjuster on the fourth day of disability. The employee is unmarried, has no children or other dependents. The employee worked four months in 1992 and three months in 1993, and attached 1992 and 1993 W-2 forms showing earnings of $9,650 in 1992 and $11,700 in 1993.

The adjuster computes the employee's gross earnings at $21,350 ($9,650 + $11,700) and gross weekly earnings at $213.50 ($21,350 divided by 100). According to the Board's 1994 rate tables, an unmarried person with no children or other dependents and gross weekly earnings of $214 would be entitled to a weekly compensation rate of $154 even though 80% of the spendable weekly wage would be $144.08.

HOW COMPENSATION PAYMENTS ARE MADE

Waiting Period. No compensation is payable for the first three days of disability unless your disability lasts longer than 28 calendar days.

The adjuster must pay compensation directly to the injured worker or the eligible dependents of the deceased worker. Adjusters pay disability and death benefits every 14 days unless the Board permits another payment schedule. Each payment is due on the last day of the period. *On or before each due date the check should be mailed or given to you.* Cashing the check does not close your claim.

Late Payments. The adjuster must pay you an additional 25% of any compensation paid later than 7 days after it is due. This is called a late payment penalty. However, the adjuster may not have to pay a penalty if one of the following happens:

1. the adjuster files a controversion notice within 21 days after your employer knew about your injury;

2. the adjuster files a controversion notice within 7 days after your next compensation check was due; or

3. the adjuster shows the late payment resulted from something beyond its control.

Example One. Your $1,000 compensation check for July 1, 1994 through July 14, 1994 is due on July 14, 1994. The adjuster pays on July 21, 1994. No penalty is due.

Example Two. Your $1,000 compensation check for July 1, 1994 through July 14, 1994 is due on July 14, 1994. The adjuster pays on July 22, 1994. Unless the adjuster shows the check was late for one of the three reasons listed above, the adjuster must pay you a $250 penalty plus interest.

INTEREST ON PENALTY PAYMENTS

If a compensation check is not paid when it is due, the adjuster must also pay you interest on the late payment at the rate of 10.5% per annum (8 AAC 45.142). Interest is in addition to the 25% late penalty.

IF YOUR CHECKS STOP COMING

If your checks stop coming, contact the adjuster. No matter what kind of problem you have with your claim, *always contact the adjuster first;* then, if you and the adjuster cannot agree, or if you have more questions, contact the Division. If the adjuster does not start payments and you believe the adjuster owes you more compensation, contact the Division.

DISABILITY AND IMPAIRMENT BENEFITS

There are four major types of disability and impairment benefits:

1. ***Temporary Total Disability Compensation.*** TTD is paid at your weekly compensation rate until you have reached medical stability or can return to work, whichever comes first. A person reaches medical stability when the injury has healed or stabilized.

2. ***Temporary Partial Disability Compensation.*** TPD is paid to the worker who can return to work but who earns less for a limited time while still healing or until reaching medical stability. TPD compensation is 80% of the difference between your spendable

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weekly wage before the injury and your spendable weekly wage after the injury while working in a light-duty position. If you return to work under a light-duty medical release and you believe you may be entitled to TPD compensation, contact the adjuster. TPD compensation is paid until you are released to work with no restrictions, you reach medical stability, or up to five years, whichever comes first.

3. ***Permanent Partial Impairment Compensation.*** PPI is paid in addition to temporary partial disability or temporary total disability payments for permanent physical loss or loss of use of body parts or functions. When your doctor tells you your injury has healed or you are medically stable, the doctor should (or you may ask the doctor to) rate your permanent physical impairment. The doctor must rate your impairment according to the American Medical Association Guides to the Evaluation of Permanent Impairment (AMA Guides). Under these guides, injuries to the head, trunk, and most body systems are rated according to the whole person. The AMA Guides rate loss or loss of use to fingers, hands, arms, toes, feet, legs, vision, or hearing. These ratings are converted to whole person ratings.

The adjuster figures permanent partial impairment compensation by multiplying the whole person rating times $135,000. Compensation is paid in a lump sum unless you are in a reemployment program; then it is paid every 14 days at your weekly compensation rate.

Example One. An employee with an injury to the elbow reaches medical stability. Based on the AMA Guides, the doctor measures the loss of ability to bend, straighten, and twist the elbow and rates impairment at 20% of the arm.

According to the AMA Guides, 20% impairment of the arm equals 12% impairment of the whole person. The adjuster multiplies 12% times $135,000 and pays the employee $16,200 in a lump sum.

Example Two. An employee with a back injury reaches medical stability. Based on the AMA Guides, the doctor measures the loss of ability to bend, straighten, and twist the back. The doctor rates the impairment at 20% of the whole person. The adjuster multiplies 20% times $135,000 and pays the employee $27,000 in a lump sum.

4. ***Permanent Total Disability Compensation.*** PTD is paid to the worker who cannot work regularly at any job because of a work-connected injury. Loss of both hands, both arms, both feet, both legs, both eyes, or a combination of such injuries amounts to permanent total disability unless the worker can earn regular income. All other cases are decided based on: nature of the injury, degree of physical impairment, age, education, work history, trainability, and availability of suitable work. The adjuster will pay you at your weekly compensation rate until your disability ends or until death, whichever comes first.

DEATH BENEFITS

If death results from a work-connected accident or illness, dependents may receive benefits at the deceased worker's weekly compensation rate. Widows, widowers, and children are dependents. Children living in the worker's household or supported by the worker, may be dependents.

Unmarried children get benefits to age 19 or older while they go to high school or the first four years of trade school, vocational school, or college.

Widows or widowers under age 52 get benefits for ten years at decreasing rates or until they remarry; if they reach age 52 before benefits end, the decrease stops and they get benefits at the decreased rate until remarriage or death. The adjuster pays two years of compensation in a lump sum to widows and widowers who remarry if two years of benefits remain. Permanently totally disabled widows, widowers, or children may get benefits until death. *Those age 52 at the worker's death receive benefits at the full weekly compensation rate until remarriage or death.*

When a child's benefits end, the child's share is paid to the widow or widower still eligible. When a widow's or widower's benefits end, the child's benefits do not change.

If there is no widow, widower, or child, then parents, grandchildren, brothers or sisters who prove dependency on the deceased worker may get limited benefits.

The adjuster pays up to $2,500 for reasonable funeral expenses.

MEDICAL BENEFITS

Choice of Doctors. You have the right to choose a doctor to treat your injury (including a licensed medical doctor, surgeon, chiropractor, osteopath, dentist, or optometrist). You also have the right to change your treating doctor once. However, before you change, you must tell the adjuster you are making a change. Referral by your doctor to a specialist does not count as a change of doctors. You must get the adjuster's written agreement if you want to change doctors more than once. If you change doctors more than once without the adjuster's written agreement, *you may have to pay the doctor's bills yourself.*

Reporting Requirements. You must be sure that your doctor sends reports to the adjuster and to the Board. When you first see your doctor, ask your doctor to report to the adjuster during the course of your treatment. Check from time to time to ensure that your doctor keeps reporting. Unless your doctor reports that you cannot work, or that you have not reached medical stability, the adjuster may never start or may stop your compensation pay nents. The Board provides the "Physician's Report" (form 6102) for the doctor. Most Alaska doctors have these forms. If you are being treated outside Alaska, ask the adjuster for forms to give to your doctor. Until your doctor has the form, your doctor may report by sending a copy of chart notes, writing a letter, or using another report form.

What Costs Are Paid. Once the adjuster gets medical reports, it must pay the usual, customary, and reasonable (UCR) costs for all care and treatment for your injury. If the health care provider's charges are higher than the UCR costs for that type treatment in the community where the medical services were provided, the adjuster is not required to pay the charges above UCR. Remember, you are not required to pay a fee or charge for medical treatment or service [AS 23.30.095(f)]. Covered costs include doctors' and nurses' fees, hospital and physical therapy charges, prescribed medicine, crutches, artificial limbs, dentures, glasses, hearing aids, medical supplies, ambulance charges, reasonable transportation costs to and from the nearest place of treatment, and reasonable meal and lodging costs when you must be treated away from your home city.

If your doctor prescribes or gives you repeated treatments, such as physical therapy or chiropractic treatment, the adjuster usually will not have to pay for treatments more often than three times a week for the first month of treatment, twice a week for the second and third months, once a week for the fourth and fifth months, and once a month for the sixth through twelfth months. If your doctor wants to treat you more often, your doctor should contact the adjuster immediately [8 AAC 45.082(f)].

How, When And Who Gets Paid. Tell the doctor, hospital, or other medical providers the name and address of the adjuster and ask them to bill the adjuster. The adjuster will pay any covered cost directly to the billing provider. Payment of medical benefits continues up to two years from the injury date. If the adjuster stops medical payments after two years, you may ask for a Board hearing. The Board may allow care after two years if the care is for the process of recovery. Most adjusters pay medical costs after two years if the care is clearly for the injury and recovery. If you pay medical costs, save receipts.

Travel Expenses. If you use a bus, taxi, train, or airplane to go to and from the doctor or other medical provider, save your receipts. If you use your own car, write down your mileage. Give the adjuster copies of the receipts and mileage record for payment. The adjuster will pay mileage costs at $.30 per mile. You must use the most reasonable transportation.

If you must leave your home city for medical treatment not available there, tell the adjuster before you go so that you will know what expenses will be paid. Save receipts for meals and lodging. To get paid, you must give copies of the receipts to the adjuster. The adjuster pays travel expenses pursuant to 8 AAC 45.084(e) which states: "A reasonable amount for meals and lodging purchased when obtaining necessary medical treatment must be paid by the employer if substantiated by receipts submitted by the employee. Reimbursable expenses may not exceed the per diem amount paid by the state to its supervisory employees while traveling."

Examination Requested By The Insurer. At reasonable times after the injury, which may be as often as every 60 days, the adjuster can ask you to see a doctor of its choice. The adjuster must give you at least 10 days notice of the appointment. The adjuster can

change its examining doctor only once unless you agree in writing to see a different doctor. If your employer's doctor sends you to another specialist, this is not considered your employer's one change of doctors. The adjuster must pay all reasonable costs for these examinations. If you do not go to these examinations, the adjuster may stop compensation payments until you see the doctor.

Board-ordered Examination. If your doctor and your employer's doctor disagree about your medical condition, an examination by a physician selected by the Board may be required unless both parties agree to waive the examination. Your employer must pay the costs of this examination including your reasonable transportation costs.

REEMPLOYMENT BENEFITS

Reemployment Benefits Administrator. The Board employs a Reemployment Benefits Administrator to oversee the handling of reemployment benefits and decide reemployment disputes between you and the adjuster.

Reemployment Requirements. If you cannot return to work, you or your employer may request an eligibility evaluation for reemployment benefits. Your employer cannot require you to accept reemployment services. However, if you refuse reemployment services that would help you return to work, you cannot expect to receive permanent total disability compensation.

Reemployment Evaluation Process. If your injury may permanently keep you from returning to the type of work you were doing at the time of injury, you or your employer must write to the Reemployment Benefits Administrator and request an eligibility evaluation. *You have until the 90th day after you report your injury to your employer to request an eligibility evaluation.* If you don't request the evaluation within these 90 days but still want reemployment services, contact the Division immediately. You may still be entitled to an evaluation, but waiting past 90 days may jeopardize your reemployment benefits.

When the Reemployment Benefits Administrator receives a request for an evaluation and the Reemployment Benefits Administrator has a doctor's report that shows you can't return to your job because of the injury, the Reemployment Benefits Administrator assigns a reemployment specialist to contact you. The evaluation must be completed within 30 days. If the reemployment specialist concludes any one of the following, you are not eligible for reemployment services:

1. you can return to the job you held at the time of injury,

2. you can return to a job that you held or were trained in within the ten years before the injury,

3. your employer offers you a job you can do which pays at least the minimum wage or 75% of your gross hourly wage at the time of injury, whichever is higher,

4. you have been retrained before in a workers' compensation claim, but you returned to work in a job with about the same physical requirements as the job at the time of the prior injury, or

5. at the time you reach medical stability, no permanent impairment is diagnosed or expected.

Within 14 days after the Reemployment Benefits Administrator receives the evaluation, the Reemployment Benefits Administrator will send you a notice telling you whether you are eligible for reemployment services. The notice will tell you in detail what to do if the Reemployment Benefits Administrator says you are not eligible. If you are eligible for services and you want services, you must pick a reemployment specialist to help you. If your employer disagrees with your choice, the Reemployment Benefits Administrator will assign a reemployment specialist to you.

Reemployment Services Provided. Reemployment specialists help you to return to work. They are trained and experienced in working with injured employees who need help returning to work.

After the evaluation, if you are eligible and you want reemployment services, you and the reemployment specialist will set up a program for your retraining. This program is called a reemployment plan. The plan may include: vocational evaluation, counseling, vocational training, academic training, on-the-job training, or help in developing self-employment. You, the adjuster, and the specialist must agree to and sign the plan. If you or the adjuster disagrees, either of you may submit the plan to the Reemployment Benefits Administrator for approval. The Reemployment Benefits Administrator has 14 days to approve or deny the plan. Within 10 days of the Reemployment Benefits Administrator's approval or denial of the plan, you or the adjuster may ask the Board in writing to review the Reemployment Benefits Administrator's decision.

Reemployment Benefits. Reemployment benefits may be paid up to two years after you and the adjuster agree upon the plan or the Reemployment Benefits Administrator or Board approves it. The adjuster pays for all the costs of your plan up to $10,000. The adjuster also pays your reemployment specialist's fees. You are entitled to temporary disability benefits until you reach medical stability. If your plan isn't done at that time, then you will receive permanent partial impairment compensation every two weeks until benefits end or until the plan is done. If you still have permanent partial impairment compensation coming when you finish the plan, it is paid in a lump sum. If your permanent partial impairment compensation ends before the plan is done, the adjuster will pay wages at 60% of your spendable weekly wages but not more than $525 per week until the plan is done.

Employee Reemployment Responsibilities. You must fully cooperate in the evaluation and in the approved or agreed upon reemployment plan. You must take part even if you are still under a doctor's care. Full cooperation means that you must keep appointments, keep passing grades, attend programs as provided in the plan, keep in contact with the reemployment specialist, and

take part in the evaluation, development of the plan, and plan activities. If you unreasonably fail to cooperate, the adjuster may stop your reemployment benefits. If you disagree with the adjuster's decision to stop benefits, you must ask in writing that the Reemployment Benefits Administrator hold a hearing to decide if you cooperated.

The reemployment specialist must give you prompt help, regularly contact you, and report your progress to you, the Division, and the adjuster.

The adjuster must promptly pay all compensation and reemployment benefits due you.

If you have any questions about reemployment benefits, contact the adjuster immediately. If you still have questions, contact the Division.

COMPENSATION EXEMPT FROM DEBTS AND TAXES

Compensation payments are not taxable. If a creditor has a judgment against you, the creditor may be able to take a portion of the weekly compensation benefits you received (AS 09.38.030 and 8 AAC 95.030). You can go to court to have the court decide what amount of your weekly benefit you can keep. You may need an attorney to help you.

You may not get temporary total disability or permanent total disability compensation and unemployment benefits simultaneously. If you get unemployment benefits while you are receiving compensation payments, notify the adjuster immediately.

OVERPAYMENTS AND ADVANCES

The adjuster sometimes makes advance payments or overpays your compensation. The adjuster may keep up to 20% of each future compensation payment until the overpayment or advance is repaid. The adjuster may not keep more than 20% of any future payment without Board approval. If you question whether the adjuster is reducing your checks by the right amount, discuss it with the adjuster. If you still have questions after talking to the adjuster, contact the Division.

SOCIAL SECURITY BENEFITS

If you or your dependents get social security benefits, your workers' compensation disability or death benefits may be reduced. You should tell the adjuster when you file for social security benefits. You must tell the adjuster when you receive social security benefits. Contact the adjuster for further information. If you still have questions, contact the Division.

TIME LIMITS

1. ***Notify Your Employer About Your Injury.*** An injured worker or dependents of a deceased worker must give the employer and

the Board written notice within 30 days after the injury or death (form 6101). Failure to give this notice may be excused under certain limited circumstances. If 30 days have passed and you have not given your employer written notice, contact your employer and the Division immediately.

2. ***Filing A Written Claim.*** You will lose your right to compensation payments unless you file a written claim (form 6106) within two years after the date you knew the nature of your disability and its connection with your employment and after disablement. If the adjuster voluntarily paid compensation, you must file a written claim within two years after the last payment. Dependents may lose their right to death benefits if they file the claim later than one year after the worker's death.

3. ***Asking For A Board Hearing.*** If the insurer files a controversion notice (form 6105) denying your written claim (form 6106) for benefits, you may request a hearing before the Board (form 6107). You will lose your right to the benefits denied in the controversion notice if you do not ask for a Board hearing within two years of the date of the controversion notice.

4. ***Asking For A Reemployment Evaluation.*** Within 90 days after you give your employer notice of your injury, you must ask for an evaluation if you cannot return to your job and you want reemployment services. If 90 days have passed and you haven't asked for an evaluation, contact the Division and the adjuster immediately.

Form 6101 is available from your employer. All other forms are available from the Division. If you cannot get a form in time, write the details of your injury in a letter to the Board, your employer and the adjuster.

COMPROMISE & RELEASE AGREEMENT

If you and the adjuster disagree about your right to benefits or the amount of benefits due you, you may enter into a written compromise & release agreement with the insurer. Only a compromise & release agreement approved by the Board is legally binding. Once the Board approves an agreement, it is final. Later attempts to set aside an approved agreement are rarely successful.

BOARD HEARING

If you or the adjuster disagrees about your right to benefits or the amount of benefits due you, you may ask for a hearing before the Board (forms 6106 and 6107).

ATTORNEY

You may choose whether to hire an attorney to represent you in your dealings with the adjuster or to present your case at a Board hearing. An attorney will probably present the adjuster's case at a Board hearing. If you plan to hire an attorney, see your attorney in time to help you file and get ready for the Board hearing.

ATTORNEY FEES

If the Board awards compensation or medical benefits that the adjuster delayed or refused to pay, the Board will order the adjuster to pay all or part of your attorney's fees and costs.

If the Board denies your claim, you do not have to pay the insurer's attorney's fees. You may be required to pay your attorney's reasonable costs. You may also have to pay your attorney's fees; however, your attorney cannot collect a fee of more than $300 from you without Board approval.

WORKERS' COMPENSATION FORMS

6101 Report Of Occupational Injury Or Illness. This report is filed when injury occurs during employment. The employee portion of the form must be filled out by the injured employee or by someone else if the employee is unable to do so. Give the form to the employer to complete and distribute. (Form available from your employer and from the Division.)

6102 Physician's Report. This form is filled out by the physician each time the injured employee is treated. (Form supplied by Division and completed by the physician.)

6103 Medical Summary. This form is used to list medical reports to be relied upon at a hearing before the Board. This form usually accompanies an Application for Adjustment of Claim (form 6106). (Form available from the Division.)

6104A Compensation Report. This form gives details of payments made to the employee and contains the formula used to calculate benefits. (Form supplied by the Division and prepared by the adjuster for your employer.)

6105 Controversion Notice. This form is used by the adjuster to deny some or all benefits. An injured employee disagreeing with a controversion notice must file a written claim (forms 6106 and 6107) to request a Board hearing. (Form supplied by Division and prepared by the adjuster for your employer.)

6106 Application For Adjustment Of Claim. This form is used to file a written claim when a dispute cannot be resolved between the employee and the adjuster. Filing an application is the first step for an injured employee, the injured worker's attorney, or a medical provider to request a Board hearing. The adjuster has 20 days to respond to the application. (Form available from the Division.)

6107 Affidavit Of Readiness For Hearing. This form is filed to request a hearing before the Board. An Application (form 6106) or Petition (form 6111) must be filed before an Affidavit of Readiness can be submitted. (Form available from the Division.)

6109 Petition To Join SIF And Claim For Reimbursement. This form is used by the adjuster to request reimbursement from the Second Injury Fund for compensation payments made to an injured worker. (Form supplied by the Division and submitted by the adjuster for the employer.)

6111 Petition. This form is used by the adjuster to make changes in payments or liability for payment of benefits. This form is not for use by the injured employee. (Form available from the Division.)

6112 Subpoena. This form is used to notify parties to appear before the Board.

6117 Compromise & Release Agreement Summary. This form is used to summarize a settlement agreement reached by the parties to a workers' compensation claim. C&R's are reviewed by the Board. (Form available from the Division.)

6118 Death Benefits Report. This form is used by the adjuster to itemize payments to the deceased's dependents. (Form available from the Division and submitted by the adjuster for the employer.)

6120 Employers' Notice Of Insurance. This completed form must be posted in three conspicuous places on your employer's premises. If this notice is not posted, it may indicate that your employer is not insured for work related injuries. (Form available from the Division and issued by the insurer for posting by your employer.)

6135 Request For Conference. This form is used to request a prehearing conference after filing an Application (form 6106) or Petition (form 6111), or to amend a previously filed form. (Form available from the Division.)

6174 Request For Cross-examination. This form is used to request cross-examination of the author of any document relied upon by the parties. The form is used by all parties to a dispute. (Form available from the Division.)

6175 Affidavit Of Compensation Rate Less Than $154. This form is used to justify paying a compensation rate less than the minimum after the adjuster has received wage documentation from the employee. (Form available from the Division for use by the adjuster for your employer.)

IF YOU STILL HAVE QUESTIONS

If you have already contacted the adjuster, but still have questions or need information about an injury, then call, write or come by one of the Division's offices.

ALASKA WORKERS' COMPENSATION DIVISION

ANCHORAGE
3301 Eagle Street
Suite 304
P.O. Box 107019
99510-7019
(907) 269-4980

FAIRBANKS
675 Seventh Avenue
Station H2
Fairbanks, Alaska
99701-4593
(907) 451-2889

JUNEAU
1111 W. Eighth Street
Room 307
P.O. Box 25512
Juneau, Alaska 99802-5512
(907) 465-2790

This booklet prepared by:
Division of Workers' Compensation
Department of Labor
State of Alaska

THIS BOOKLET IS FOR INFORMATION ONLY AND DOES NOT NECESSARILY HAVE THE FULL EFFECT OF LAW OR REGULATIONS.

Official Business

COMMITTEE: L&C

DATE: 2/22

SIGN-IN

Subject of meeting: HCR 3 Worker's Compensation Pamphlet ERRORS

PLEASE PRINT!

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
DWIGHT PERKINS	POBox 33922 JNEAU, AK	465-2700	DEPT. OF LABOR	Yes

HCR

24

Vi ANE BARRAS 1/31/96
EX. DIRECTOR

Chairman Kott, committee members,

Thank you for the opportunity to provide testimony this afternoon with respect to House Concurrent Resolution # 24.

I will briefly address the statements of fact contained in the resolution as the justification for this request from the House to the Governor.

To provide a context for my remarks, allow me to first point out that it has been concern for the financial soundness of the Alaska Student Loan Program that has forced the Commission to more fully use the tools provided in statute to address the continued losses to the fund. Some have been difficult decisions that, while made for the benefit of Alaskans now and in the future, will change the rules of the program. Part of this approach involves setting and maintaining institutional performance standards. The standard should be used as a measuring tool so that borrowers have some indication of how likely it is that the training they are buying will improve their marketability in the work force.

While the law references graduation rates and employment placements rates the only specific threshold that is referenced in statute, with respect to institutions at which a student loan may be approved, is the institution-specific standard of 150% of the overall Alaska Student Loan Program default rate in AS 14.43.120(d). There is certainly a lot of conversation which can take place about that "moving" threshold however, clearly some standard of performance must be examined and the default rate is one that reflects the heart of the issue and that is--money that goes out to borrowers but is never repaid.

With regards to the document before you for consideration today:

Diane Barnes
Ex Dir.

1st Whereas--Agreed--vocational education is an integral part of education in Alaska and one that warrants continued support by the student loan fund as long as students are buying something worth the investment they're making, something that enhances their ability to be full participants in the labor market in Alaska and that enables them to repay their debt to the Corporation;

2nd Whereas--this statute references all for-profit institutions not voc-ed schools. This sector's combined defaults account for almost 30% of dollars in default on loans made between July 1986 and December 1995--the period currently being measured. It is this substantial "leak" in the loan fund that can be addressed by implementing a regulation that complies with existing state law. The percentages referenced in the resolution are incorrect having been taken out of context from a document that compared a portion of the student loan database with the unemployment insurance and wage and labor data files maintained by the Alaska Department of Labor. In the review period the Commission is using (FY87-FY95), for-profit schools received approximately $60 million dollars in loans and almost $20 million of that is now in default--almost 30% of dollars loaned. During that same period, Alaska public postsecondary schools received $130 million in loans and have collectively experienced a default rate of less than 17% of dollars loaned or $21.7 million. This comparison demonstrates that, by this yardstick it is clear that the investment some short term vocational programs or products has a significantly lesser value to the borrower and results in a poorly performing loan in the loan fund.

3rd and 4th Whereas--clearly the Commission has struggled for years to get a regulation in place to comply with the law.

5th Whereas--the law limits application of this rule to for-profit schools. The calculation described in the regulation can be applied to any school if that authority is given.

6th Whereas--The law currently does not direct the Commission to insure credit worthiness of borrowers and, in fact, we may not require security for these loans. The Commission and Corporation very well may welcome an opportunity to verify borrower credit worthiness. It just make good business sense.

7th Whereas--The loan program must now be administered in a fiscally responsible fashion with no anticipation that the legislature will, as it did prior to creation of the loan Corporation, capitalize the program annually with General Funds.

8th Whereas--The institutional default calculation will date from FY87 and, unless substantive changes occur in conjunction with ownership change such as program curricula, delivery or instructional staff, the continued access to the student loan fund, which is purchased along with the institution, will be deemed an asset or liability to the new owner. The exception will be under proposed regulation that require a new school owner to establish a "track record" distinct from their predecessor. In that event the new owner will not retain any prior borrowing history incurred under previous owners.

9th Whereas--Current implementation plan does not provide for a "probationary period".

10th Whereas--Institutional default rates will be produced in the first quarter of each calendar year and will reflect the default levels at December 31 of the prior year.

11th Whereas--I, and the previous Executive Director Dr. McCormick, did relay the message clearly sent by members in both the House and the Senate--there is a law on the books and if you, the Commission, comply with that some of your default rate issues will be addressed. It certainly was not the only reason that the Commission made this difficult decision and moved ahead when many attempts had been made in the past only to be diverted to subcommittees to "study" the issue. While the Commission "studied" the issue between 1988 and the current year, the loan fund has lost a total of $44 million--Losses which endanger the long-term viability of the program.

12th Whereas--The Commission has always had a systematic collection unit. This unit has expanded over time and in 1986 the Commission expanded these collection or default prevention techniques to include the use of external, private collection agencies. During that same period borrowers were alerted on the application forms that their loans were serious obligations and should be treated as such. After the advent of the permanent fund dividend, the Commission sought and were granted the ability to garnish dividend from defaulted borrowers. We have clearly been sending the message for years that this is a serious debt and should be treated as such. We continue to seek ways to encourage improved repayment behavior however, with an unsecured debt of this kind collect is very problematic.

13th Whereas--Clearly, the Commission/Corporation would ideally like tc only make loans that would be repaid. The issue of easy access to state-endowed student financial aid is one where honest and frank public debate is needed. If the State chooses to subsidize at-risk individuals, that subsidy or underwriting should be up-front not after the fact at a high cost to a valued public program.

14th Whereas--Borrowers choosing viable vocational education programs will continue to have access to them. Market pressures will insure that the needs of the labor market can be met. If the value-added by a training program is significant enough either the individual or the industry in need will insure access to training.

15th Whereas--Agreed. Any cooperative assistance that results in a positive impact to the financial strength of the program will be welcomed.

16th Whereas--All schools participating in the program will be expected to support default prevention measures.

17th Whereas--Both Alaskan students and the state would be positively affected by the immediate implementation of this regulation in some manner whether that be retroactively or prospectively. Consumers would be protected from institutions that seek primarily to increase their revenues by selling training that has limited value-added benefits to their customers. The State would see an immediate benefit by paying less insurance on the bonds sold to fund the continuance of the loan program.

This resolution would rescind a regulation that very simply sets out the method for performing a calculation. This rescinding action would result in an immediate and

negative impact on the Alaska Student Loan Program. The external customers of the Alaska Student Loan Corporation would see that the Alaska Legislature is prepared to continue to risk the financial integrity of the loan fund to continue to subsidize a segment of private interest in Alaska.

If the proprietary sector in and outside of Alaska wishes to continue to reap an income from the Alaska Student Loan Program, their Alaskan customers should benefit as well. I urge you to set aside this resolution and support the Commission as we move forward to insure the future soundness of the loan program and provide consumer protection to the highest risk portion of our client pool. Thank you.

1/31/96

Testimony for the House Labor and Commerce Committee

The Alaska Post Secondary student loan fund faces a fiscal crisis. The total funds invested by the state in the loan program amount to some 480 million dollars. Of that amount, about 260 million remain on the books. In keeping with the idea of equal access to post secondary education opportunities for students across the state, the Post Secondary Commission sells bonds to finance the student loan demand each year. The statutes and rules which govern such things as interest rate calculations, forgiveness provisions, repayment schedules, etc.. guarantee that the fund cannot be a truly revolving, self sustaining fund. As a consequence it looses between 4 and 9 million dollars a year. Within a few short years the Commission's financial position will be such that it will be unable to sell bonds. This event will make the funds available for loans fall well below the demand and as a consequence the notion of equal access will be lost. Because of the cyclic nature of student loans and because it is impossible to impose new conditions retroactively, it is roughly two and a half years before any changes made in the program show up as changes in the financial statements. Thus we have a limited amount of time, perhaps just this session, to effect changes to save the student loan program as an instrument for equal access to education.

Recently the Alaska Post Secondary Commission enacted a set of regulations which the agency will use to calculate student default rates and private institution eligibility to enroll loan-funded students. Since defaulted loans are the single largest cause of the fund's decline, these regulations go to the heart of the commission's attempt to rescue the fund. The eight year delay between the enabling legislation and the implementation of the regulations is due in no small part to the lobbying efforts of the proprietary schools that have arrayed themselves around the loan fund, and count on a flow of public dollars for their existence. It took the loss of many millions of dollars to the loan fund's financial corpus, and considerable political will for the commission to enact the current regulations. The regulations are not the whole answer, but they are a significant and necessary part of the management actions that are necessary if the loan fund is to survive.

The proprietary schools have lobbied the commission and the legislature rather vigorously on this subject. It is a classic case within the American political system of a highly focused private interest group attempting to structure public policy toward their own ends. In this process, the hidden costs to other groups go unnoticed or obscured. The majority of