

1977-78

SENATE LABOR AND MANAGEMENT COMMITTEE

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1/20/1977 - 3/24/1977

Senate Labor and Management Committee Minutes

January 20, 1977

Agenda:

SB 23 An Act relating to administrative leave for employees engaged in collective bargaining; and providing for an effective date.

SB 40 An Act relating to state and municipal employment.

SB 23 tape log Tape #1 0025 to 0760

Testimony:

Ed Orbeck, Commissioner of Labor stated that employee arbitrators are not paid while they are at the negotiating table.

Ken Spray of Alaska Public Service Employees Local #71 and co-chairman for contract on local #71. Stated that employees selected to arbitrate should be given administrative leave with pay.

Diane Burgstrom of Alaska Public Employees Association, stated that administrative leave was withheld until after the contract was signed and then given retroactively, thereby used as a tool to hold over the heads of negotiating employees. APEA is an independent organization with financial difficulties that cannot afford to pay negotiators without incurring severe difficulties.

Senator Ray stated that employees should be paid while negotiating if the State negotiators are paid.

Patrick Hunt, Director of Personnel is not in favor of administrative leave, believes if employees are to be paid while negotiating that a direct appropriation should be made to APEA for that purpose. APEA has the most liberal collective bargaining law in the US and should pay their own negotiators. If the state is going to subsidize the union it should be through a direct appropriation.

Senator Ray moved the bill out of committee with individual recommendations.

SB 40 tape log Tape #1 0770 to 0810

Testimony:

Ed Orbeck, Commissioner of Labor stated that the administration advocates local hire in all departments.

The bill was held for more discussion when the sponsor could be available.

Senate Labor and Management Committee Minutes

February 17, 1977

Agenda:

- HB 45 An Act relating to employment with the Alaska Marine Highway System
- SB 52 An Act relating to wages and hours of employemnt
- SB 43 An Act relating to the investment authority of the commissioner of revenue as custodian of the retirement funds established by AS 14.25 and AS 35.39.
- SB 40 An Act relating to state and municipal employment.

HB 45 tape log Tape #2 0013 to 0384

Testimony:

William Hudson, Director of Division of Marine Transportation. This bill along with HB 44 could cause severe problems for the Division of Marine Transportation.

Rep. Freeman, Sponsor, stated that the purpose of the bill is to get ferry employees to live in the state and is applying economic pressure to get them to do so.

Senator Ray moved the bill out of committee with individual recommendations.

SB 52 tape log Tape #2 0445 to 0748

Testimony:

Julius Brecht, Director of Banking and Securities in the Department of Commerce and Economic Development, representing the views of the Administration. Currently over time is any time over 8 hours a day or 40 hours a week. Flex-time or 4 ten hour days without overtime promotes higher moral, decreases absenteeism and increases productivity.

Lee Leland, Supervisor of Wage and Hour Division of Department of Labor, stated that DOL has no position on flex time as the State is exempt from wage and hour provisions.

The bill was held over for another meeting.

SB 43 tape log Tape #2 0748 to 0808

Testimony:

Jim Edenso, Deputy of Commissioner of Revenue, Treasury, stated that the administration supports the bill.

Senator Sumner moved the bill out of committee with individual recommendations.

SB 40 tape log Tape #2 0808 to 0910

Testimony:

Bill Hall, representing Senator Kerttula, sponsor. This bill injects Alaska hire into State Government by making the state justify hiring a non-resident as opposed to a resident with the same qualifications.

Senator Ferguson requested a legal opinion and held the bill over for another meeting.

Senate Labor and Management Committee Minutes

March 17, 1977

Agenda:

CSSB 131 An Act relating to Workman's Compensation

CSSB 131 Tape log Tape #3 0000 - 0055

Passed out of committee with individual recommendations.

Senate Labor and Management Committee Minutes

March 21, 1977

Agenda:

- HB 203 An Act relating to pay differentials between state employees residing inside and outside the state.
- SB 40 An Act relating to state and municipal employment.
- SB 252 An Act relating to liens upon real property and improvements.

HB 203 Tape log Tape #3 0055 - 0140 and Misc. tape 0000 - 0029

Testimony:

Bob Stewart, Deputy Director of Personnel Labor Relations, stated that outside wages should be frozen until Alaska wages increase to the desired differential.

HB 203 moved out of committee with amendment.

SB 40 Tape log Tape #3 0140 - 0295

Testimony:

Ken Green, Deputy Director of Personnel Labor Relations, this bill would give the state more opportunity to hire non-residents.

Senator Ray asked Sponsor Kerttula for a Sponsor Substitute.

SB 252 Tape log Tape #3 0295 - 0383

Testimony:

Pat Irvine, Alaska Title Guarantee, supports bill.

SB 252 moved out of committee.

Senate Labor and Management Committee Minutes

March 24, 1977

Agenda:

SB 244 An Act realting to special officers.

SB 116 An Act realting to employment security; and providing for an effective date.

CSHB 104 An Act relating to certificates of residency; and providing for an effective date.

SB 244 Tape log Tape #3 0397 - 0480

Testimony:

Jim Wakefield, Assistand business manager of Laborers Local 942. In favor of the bill, just a housekeeping measure.

SB 244 moved out of committee.

SB 116 Tape log Tape #3 0480 - 0573

Testimony:

Roger Harmon, Assistant Director unimploymnt insurance, Department of Labor. DOL has problems with the bill. The situation can be handled by regulation. Purpose is to relieve fishermen of paperwork.

SB 116 moved out of committee.

CSHB 104 Tape log Tape #3 0573 - 0921

Testimony:

Bill Spear, Deputy Commissioner of Labor

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MINUTES

1/28/1978 - 5/12/1978

Senate Labor & Management Committee Hearing of 1/28/78

Public Hearing in Fairbanks, Alaska

Members Present:            Senator George Hohman, Chairman  
                              Senator Bill Sumner  
                              Mr. Rob Kocsis, Staff Assistant

Re:                            SCR 73, relating to the Alaska Industrial  
                                  Development Authority.

Prepared by:                Senate Labor & Management staff

Senator Hohman:            This is a public hearing held in Fairbanks, Alaska on  
                                  January 28, 1978. The subject of the hearing is Senate Concurrent  
                                  Resolution 73, relating to the Alaska Industrial Development Authority.  
                                  This resolution was introduced by the Senate Labor & Management Committee.  
                                  In attendance representing the Senate Labor & Management Committee are  
                                  Senators Sumner and Hohman and staff member Rob Kocsis.

Our responsibility as a legislative subcommittee is to take testimony  
on SCR 73 to return to the Senate Committee and the Senate as a whole  
information that we come up with here and prepare a report to the  
Committee and to the Senate as a whole. We are going to be restricting  
testimony to the subject, the points here in the resolution. I wonder  
since there seems to be some provisions, if we might have a designee  
from each interest group. Do we have someone that we might look upon  
as the designee from Wien Air Alaska? Mr. Ray Peterson. Someone that  
we might look upon as the designee from the Airline Pilots Association?  
Mr. John Lenahan. Who is here representing the State Department of  
Commerce? (Audience voice - Mr. Hubbard was unable to attend. Inaudible)  
Is there any other group that is represented here? We'll classify the  
others desiring to give testimony as I suppose individuals. I think that  
unless there is objection we'll begin the proceedings with testimony from  
the Airline Pilots Association. We have three people who have indicated  
that they would like to testify, and following that one person from Wien  
Air Alaska that wishes to present testimony, we have two people from the  
Alaska Industrial Development Authority and one person Mr. Karelia of the  
North Star Borough Assembly that desires to give testimony and one person  
who represents the purchaser of Wien bonds.

Mr. Lenahan, would you like to testify? (Audiences voices - Inaudible)

Mr. John Lenahan:        Mr. Chairman, I'd be happy to leadoff. Where would you  
                                  like me to sit?

Senator Hohman:            Would you identify yourself and your affiliation?

Mr. John Lenahan:        I'd be happy to. Mr. Chairman, on behalf of Wien Airline  
                                  Pilots and the Airline Pilots Association I wish to give appreciation for  
                                  the opportunity to appear before this committee today. My name is  
                                  John Lenahan, I'm an attorney with the Airline Pilots Association, I'm  
                                  representing that association for Wien Air Alaska Pilots Association.  
                                  First of all, I would like to take this opportunity to apologize that  
                                  we were unable to present a formal plank statement to the committee.

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We would normally do that, but unfortunately due to reasons which I will explain more fully as I go along, we did not obtain records and documents from the Authority until just the other day, Wednesday or Thursday, and the documents were about a foot and a half high and it was just virtually impossible to go through that massive stack of documents and prepare something for you before we appeared here today, so for that I apologize.

Senator Hohman: Mr. Lenahan, subsequent to the hearing if you have some written presentation we'd be glad to accept it and that goes for anyone that was inconvenienced for whatever reason.

Mr. John Lenahan: Since the resolution is directed to the Alaska Industrial Development Authority and its enabling statute, the Act, perhaps we'd better just recap for a moment the history of the Act.

Back in 1967 HB 14 was passed, that is the bill that was entitled the Alaskan Industrial Development Authority Act, and it provided essentially for the issuance to buy the - State or one of its agencies - the authority of tax exempt revenue bonds with the purpose of improving the economy of the State, relieving unemployment in the State, seasonal and non-seasonal, and creating new employment. For ten years that Act, while applied for by several companies, was never implemented. In 1977, this past May, the Act was amended, as the Committee well knows, and it was amended evidently to bring it in line with an amendment to the Internal Revenue Code that was passed back in 1968 or 1969. That particular Internal Revenue Code provision is Section 103, and it provides for the issuance by State and local governments of certain tax exempt bonds provided that the proceeds will go to certain tax exempt activities. One of those tax exempt activities is air transportation facilities. Prior to the year 1977, however, the State of Alaska had never updated its Alaska Industrial Development Authority Act to bring it in line with that provision in the federal law. In 1977, in May, that was done. Despite the amendment, since 1967 when the original Act was passed, the records so far as we can tell reflect a great deal of uncertainty and confusion about the Act. As I indicated, even before the amendment in 1977, there were several applications for the issuance of bonds to the benefit of certain private enterprises that would be engaged in industry here in the State to the benefit of the public but for one reason or another those applications never came to fruition - the bonds were never issued. From what we can tell in reviewing the documents, problems existed with respect to tax exemptions. Whether or not if the financing of papers that were used provided for sale of the property involved to the Alaska Industrial Development Authority during the term of the bonds, whether or not that would mean, that the property thereby would become State owned property and exempt from local taxation. There was a great deal of concern and discussion about that. There was some concern about the meaning of the term "financial responsibility" with respect to the findings that the Authority must make before issuing bonds. The question arose as to whether or not the project which was being financed, had to be one that could pay off the bonds or whether or not the applicant and the beneficiary of the bonds had to be sufficiently financially responsible to pay off the bonds with principal and interest and debt service irregardless of the success of the project itself. There came a time when there were some questions about the application of the States Administrative Procedure Act, concerning disclosure and other provisions in that statute. There is some internal inconsistencies in the statute itself. Mr. Wohlforth

perhaps will address himself to this later but I can give two examples. In the provision in the statute entitled tax exemptions the very first sentence indicates that property of the Authority, its income and its receipts are tax exempt along with the leasehold interest and other ownership interests of the project occupant. Now that provision existed until 1977. In 1977 the statute was amended and a final sentence was added to that same paragraph which said that while no prior tax exempt provisions in the Alaska Statutes would be effected or limited this particular statute did not create any new tax exemptions and it did not exempt from local taxation property owned by a leasehold interest of the project occupant. So it appears that in that particular provision there is an internal inconsistency. In the very beginning of the statutory provision it says that the leasehold interest is tax exempt and in the final statutory language in that provision it says that it is not tax exempt. That is one inconsistency. Then there is another one that talks about the potential conflicts of interest on the part of members of the Authority itself. If there is a member of the Authority, the chairman, vice-chairman or third member, with a conflict, in other words if he has some interest in the project that is to be financed by the bonds then he has to disqualify himself for purposes of the resolutions which pertain to those projects. There is a subsequent provision which provides for replacement for that particular individual. It says that if one of the members of the Authority has a conflict of interest and is disqualified he will be replaced by certain State officers in a certain sequence, the Attorney General and several others. One of the persons that could replace the man with the conflict is the Commissioner of Revenue. But according to the statute the Commissioner of Revenue is already a member of the Authority. So there is an internal inconsistency in the statute. I'm sure that we could go on and on and discuss some others, but basically what I'm saying is that the statute tends to be confusing at points, vague and unclear. And hopefully the legislature can examine that, that problem. Perhaps one of the classic examples of the problem with the statute occurred several years ago back in 1973-74 when the federal permits were granted for the Trans-Alaska Pipeline. Several companies, notably ARCO - the Atlantic Richfield Company - applied under the Authority under the Act for the issuance of bonds to finance terminal facilities in Valdez. One of the points they made however was that they needed some kind of official action from the Authority promptly because they were preparing to begin construction. For a variety of reasons which the papers reflect have to do with the politics in some senses and just difficulty in implementing the statute, a decision was ultimately made not to use the Alaska Industrial Development Authority Act but rather to have bonds issued under another statute which enables municipalities to issue bonds and indeed that was what was done. The point here is that the Alaska Industrial Development Authority Act was apparently too cumbersome in some of its provisions, too confusing in some of its other provisions, to be implemented at a time when it might have been implemented and for very worthy purposes. Now, addressing ourselves to the more recent past, subsequent to the 1977 amendment to the Alaska Industrial Development Authority Act, Wien Air Alaska and several other companies in the State of Alaska applied for the issuance of bonds, the proceeds of which would be used by these companies for various purposes. I'd like to address myself specifically to the Wien application. Wien applied for \$19.1 million dollars in bonds. \$10.1 or 2 million dollars of those bonds were to be used for what we describe what we think fairly is refinanced. Mr. Wohlforth has taken issue with our use of that term,

he says we elevated it to a dignity that was never intended. But nevertheless we abide by that discription. Basically, what it amounted to was, Wien has at least that much money in short-term debts. They intend to use the proceeds, or intended at the time they applied, to use the proceeds, \$10.2 million dollars worth of proceeds, to pay off those short-term debts. Now according to the proposal, as we understood it from the documents which were given to us earlier this month, the payment on the bonds would be stretched out over a period of approximately 25 years. The first two years, however, the principal interest payments would not have to be made by Wien. That was one part of the package, the other part of the package had to do with new construction, expansion and improvements of already existing facilities, about \$4.5 million dollars. The remaining \$4. someodd million dollars was to be used for administrative expenses and public debt service. We take issue with the use of the Alaska Industrial Development Authority and its enabling law to benefit Wien during the time of a labor crisis, labor controversy. As this Committee is well aware, the public is all well aware, there has been an ongoing strike since May of 1977. Shortly before the application was submitted by Wien the strike got under way. We submit that the use of state bond proceeds to improve Wien's cash flow and capital structure is contrary to a very clear State policy of maintaining strict neutrality in a labor dispute. There is a State statute which provides very clearly that Alaskan employees who are on strike may not obtain the benefit of unemployment insurance payments. We find it difficult to justify or rationalize using the proceeds of a bond issue, under the auspices of a state agency or state authority, to improve the cash flow and the capital structure of a company that has been struck by its employees. We note in that regard that during the course of this labor dispute, Wien Alaska has maintained a certain level of its operations using in some cases non-Alaskan employees which we also understand to be a violation or contrary to Alaska State public policy. Now, let me get back if I may for a moment, to the question of the validity of the propriety of State bond proceeds for refinancing. This has been the crux of the controversy since the pilots first learned about the proposed issuance of these bonds. We've been told time and time again by Mr. Wohlforth that we don't know what we're talking about, that refinancing doesn't mean anything in the world of finance and that there is nothing inappropriate about using bond proceeds from the Alaska Industrial Development Authority to refinance short-term debts. Well, I'd like to call the Committees attention or invite the Committees attention to some documents which we came across in the process of looking through the files that were given to us by the Alaska Industrial Development Authority. Back in 1974 - February 5, 1974 - Mr. T. F. Bradshaw, whom I believe was the president of ARCO, wrote a letter to the Governor, Governor Egan, regarding the application of ARCO for the issuance of Alaska Industrial Development Authority bonds for the Valdez project. And attached to his letter, he had a memorandum which discussed various aspects of the Authority and its enablement statute. And if I may ask the Committees indulgence I'd just like to quote to you from one portion of that memorandum, which as I said came from an applicant. It says and I quote as follows on page two of the memorandum, "The Internal Revenue Service Regulations impose a requirement that a bond resolution or other similar official action received the commencement of construction of the facilities to be financed. This requirement was imposed for two reasons. The first reason was to prevent the use of I.D.B.'s, Industrial Development Bonds, to refinance existing facilities.

And if I may I'd like to repeat that the first reason was to prevent the use of IDB's, Industrial Development Bonds, to refinance existing facilities. The second reason was because the provisions dealing with IDB's were to be effective only for obligations issued subsequent to the Tax Reform Act of 1969." And I'd like to turn to page three where the author summarizes this particular paragraph and says, I quote "this it was logical for the authors of the I.D.B. regulations to require some official sanction or approval of a project prior to the commencement of construction so that the project might be dated. It might bear some external evidence that it was not a near refinancing." That was in February. In March of 1974, or March 20th to be precise, in the memorandum from Mr. Wohlforth, who is now bond counsel to the Authority, to Commissioner Irene Ryan, who was then the Chairman of the Authority, he said in the third paragraph of this memorandum, "the necessity of preliminary approval by the Authority in the City of Valdez of the project in an early state was stressed at the meeting. This preliminary approval, to be evidence by a resolution of the Authority, is a requirement for an ultimate tax exempt ruling by the Internal Revenue Service in the case of certain projects to be used by private persons or corporations. If the bonds are to be tax exempt the resolution must be adopted before construction of the project begins." I think that the documents which I've read from speak for themselves. The bottom line is, and this is our very strong position, that you can't use the Alaska Industrial Development Authority Act to benefit a corporation strictly in the sense of permitting them to refinance their debts. That is not what it was intended for. It was intended originally as are the similar statutes throughout the United States to encourage businesses, small and large, to come into a community for the public benefit. It is not to the public's benefit to allow a struck carrier to refinance short-term debts. Now, there are some other points I'd like to touch on with respect to refinancing. One of them is local participation. As the resolution in its proposed form notes, the original statute provided for local participation before final action was taken on the bond issue. If a project was to be located for example in Fairbanks, one that was to be financed by the bonds, before the bonds were actually issued and the bond resolution passed by the Authority, three local residents of the Fairbanks community would be appointed to the Authority to participate in that determination. In 1977 the Act was amended, and that particular local participation was deleted from the Act for purposes of these new more specifically described facilities, such as air transportation. Now, the only function that the local government has is to approve the "location" of the facility. As we understand it, the basis for the deletion was because this was too cumbersome a provision, it delayed the process too much. Well, we ask you to consider the problem that has occurred in the last few months since this controversy arose over the Wien bond issue. When the Authority passed its resolution back in 1977, on June 16th, authorizing the proposal to be presented to the local communities for their approval of the location of the facilities, all of the facilities, and all of the local rather, approved the location, Dillingham, Deadhorse, Fairbanks, Anchorage, Nome and Kotzebue, all of them. However, after the pilots learned about this particular proposal they went out into those communities, and a number of them rescinded their approval when they heard from the other side. Now it is a fact, that we sought rescission in Anchorage and I'm sure that you will be told that

Anchorage did not rescind its approval. But I think that you should keep in mind that their initial approval was based on the unanimous vote of the Economic Development Commission in Anchorage recommending approval and the Anchorage Municipal Assembly unanimously approved the location without any discussion whatsoever. On January 27th, the Assembly met again to consider rescission, the Economic Development Commission appeared and reported that they had again reconsidered their decision to recommend or not and they had affirmed their recommendation that the bonds go forth, that the location of the facilities in Anchorage be approved, but instead of a unanimous vote it was I believe five to three or five to four. The Municipal Assembly of Anchorage changed their vote from a vote that was unanimous in the first instance to one of six to four, choosing not to rescind. Four members of that Assembly changed their minds and spoke out very strongly to the same effect that we have, that is that refinancing was never intended, they never understood when they approved the location of the facilities initially that some of the facilities were being refinanced and they wished to rescind. And as I said there are still other communities that have in fact rescinded and have maintained their rescission. Recently, Dillingham turned around, they had initially approved, they rescinded, they have now rescinded their rescission. But the point that I am trying to make is that when these local communities had an opportunity to consider this problem to hear from both sides, they were not as clear in their decision as they had been initially when they had only heard from one side when they only heard part of the problem. Another point I'd like to address is the problem of disclosure and the application of the State's Administrative Procedure Act. We first learned about the bond issue sometime back in mid-December and within a week or two we had sent requests to the Chairman of the Authority, the members of the Authority, and bond counsel, for information relating to this particular bond issue and the implementation of the Act in recent years. To put it in a nut shell, we have been whip-sawed back and forth for the last month and a half. When we have gone to Juneau we've been told that the material is in Anchorage. And when we've gone to Anchorage we've been told the material is in Juneau. And this has been continuously happening. Now, I'm sure that one of the problems, and I think a problem this Committee should look at very closely, is the fact that the Authority, which now has a number of applications pending before it in addition to Wien, has no paid staff. They don't have an executive director despite the fact that Mr. David Rose as we understand it in the City of Anchorage has offered his services and his office at no cost to the Authority for a period of time. That perhaps has been a serious problem. So far as we know, there has been no appointment of an official custodian and if there has been he doesn't know who he is because as I understand it from the bylaws the custodian is supposed to be Mr. Gallagher. And Mr. Gallagher doesn't seem to have the records. There are some records, which we have obtained copies of, which came from the office of Mr. Hubbard, who is the Chairman of the Commission or the Authority who also happens to be the Commissioner of Commerce and Economic Development. And while he, I would submit, surely knew that he had files in his office, he kept referring us to Anchorage to Mr. Wohlforth's office. Mr. Wohlforth that originally as I said told us to go to Juneau. So, we've been going back and forth. And when we sought information from Mr. Wohlforth whom everybody has continuously told us is the Authority with respect to this particular statute and is the man to seek out when we want information, he has complained that we have been harassing him. Now if multiple requests for information regarding a pressing problem which may at any date come to a head is harassment, then we are guilty. We're guilty. It was never our

intention to harass him in the normal sense of that word. It was simply to obtain information. But apparently he feels that he has been harassed. And for that we're sorry but we're not sorry that we sought the information. Even at this point in time, we don't believe that we have all the documents which pertain to the Wien bond issue, and which pertain to the Authority itself. In December we sent a request to Mr. Wohlforth and to the members of the Authority for a number of documents, including financing agreements, indentures of trust and any written agreement between the Authority and its financial consultant, the First Southwest Company, as well as between the Authority and its bond counsel Mr. Wohlforth. Mr. Wohlforth provided us with an installment sales contract, he provided us with an indenture of trust and he provided us with a document known as a guarantee. He did not provide us with any writings regarding the financial arrangement between the Authority and the bond counsel, the Authority and the financial consultants. If you look at the minutes of the August 19th meeting of the Authority those agreements were discussed, the First Southwest Company's agreement with AIDA as well as bond counsel's fee arrangement with AIDA. It is our impression that those agreements were in writing but yet we've never been provided with them and we've never been told why we can't have them. I think that is a clear violation of the Administrative Procedure Act of the State of Alaska and the Freedom of Information Act provisions. Something else you might consider, in terms of compliance with the States Administrative Procedures Act, pursuant to an opinion rendered by the Attorney General of the State some time ago I think it is clear that the Administrative Procedures Act in the State statutes applies to AIDA. That statute provides among other things for reasonable notice, reasonable public notice to be given prior to a public meeting of the Authority. I even discussed this particular provision with Mr. Wohlforth back in December and asked him as the bond counsel for the Authority what he considered to be "reasonable public notice" and he said he didn't know but he thought that probably five days would be reasonable. If you look at the notices that were provided before the June 16th meeting and before the August 19th meeting they were approximately two days in length. The public had two days notice of these meetings. And if you look at the notices themselves they are very broad and they really don't tell the public what is going to be discussed. They say such things as internal laws involved in the Authority and the exercise by the Authority of its powers. Things of that nature, but no where would you find in one of the notices that I've seen a reference to the discussion of the Alaska Airlines application for bonds, Wien Airlines application for bonds, so that people who are interested in those particular bond issues could attend the meetings. Now, in conclusion, I'd like to make a suggestion or recommendation to the Committee, reluctantly, but I think we've reached the stage where I feel it is necessary. I've described in some detail, perhaps not as much as I'd might, the problems that we've had in obtaining information. I want to embellish that a little bit and say that not only have we had problems in that respect but we have been accused by Mr. Wohlforth, bond counsel for the AIDA, in addition to harassment of being silly, of being naive, of being ignorant of the world of finance and various other statements in the press and in the public.

Senator Sumner: Mr. Chairman, I think this is quite a bit of a field, but I don't know what part of this resolution he is addressing himself. I mean, I really wouldn't want him to get down into an argument between about how Mr. Wohlforth what he calls him, what his opinions have been or vice-versa but if there is any particular part of this that relates to - I don't have any objection - but I just, otherwise we're going to wind up in the middle of a fight.

Mr. John Lenahan: Well, I don't want to do that Senator Sumner, but my point is in terms of a fair and objective implementation of the statutes I think that that is going to be very difficult in light of the way Mr. Wohlforth has been conducting himself in the last month. He has lost his objectivity in our minds and he is supposed to be an employee of the State, of a State agency. He is supposed to be representing and advising that State agency and he is in our judgment no longer doing that. He has lost his objectivity. And what we're suggesting is that in terms of future decisions with respect to the proposal, the Wien proposal, and other proposals having to do with Wien bonds that Mr. Wohlforth should no longer participate, because he has lost his objectivity. Now, it is very disappointing to us that Mr. Hubbard wasn't here today because the purpose of this hearing as we understand it is to discuss the proper application of this statute for purposes of the Wien bond issue as well as in the future. And, I think it is very difficult for this Committee to get all of the facts, which it is obviously attempting to do, and to get the opinion of a member of the Authority, the Chairman of the Authority, without Mr. Hubbard being here. Be that as it may, we would urge that this Committee recommend passage of the resolution by the Senate and that that be done as expeditiously as possible. I have nothing further to add at this point in time. If any member of the Committee or staff has any questions I would be delighted to answer them.

Senator Hohman: Are there questions of Mr. Lenahan?

Senator Sumner: I have some questions.

Senator Hohman: Go ahead, you have the floor Senator.

Senator Sumner: You have a copy of the Resolution available?

Mr. John Lenahan: Yes sir I do.

Senator Sumner: There are several areas which you've touched on which would start on line 8 and part of that paragraph following. It is an area that you touched on which sets out the purpose of the Authority collecting a loan such as the one we're talking about now, and as you've indicated, that no where in there does it indicate refinancing and that is one area that I wanted to labor on just a little bit. And I pose a question to you along this line in terms of your and Mr. Wohlforth's inability to sort of see eye to eye on what refinancing means. If you own a building and you have a five year mortgage, short-term mortgage on that building, and the payments are high, which create some sort of taxable burden, and you ask

for a loan to refinance that building to a twenty year loan or twenty-five year loan in an effort to reduce the payments, that is sort of in my view, is a clear understanding of what refinancing is. Where it gets cloudy in my mind and where we're talking about refinancing or expansion is if I get a five year loan on that building which might preclude me from expanding or borrowing money to expand, but if I refinance that five year mortgage to a twenty-five year mortgage, which now allows me to make other loan applications or permits some of my other funding or finances to building a second building or in this case maybe buying an additional airplane, are we then talking about refinancing or expansion? And expansion is one of the purposes of the federal law. So, if you would care and would expand on that if you will, and I'm assuming you have a full understanding about what Wien plans to use the money for... My direct question to you is, is there under any circumstances any agreement in your mind that it could be called expansion?

Senator Hohman: Mr. Lenahan, you have the floor.

Mr. John Lenahan: Thank you, Mr. Chairman, I think that is a perfectly appropriate thing to do by means of conventional financing. However, when we're talking about the use of the AIDA bonds, the applicant and indeed the Authority has to be more specific as to what the money is going to be earmarked for. And when you look at the proposals as they were submitted to the local governments in terms of the location of the facilities and what was to be done with the money, and the installment sales contract which was provided to us back in the early part of this month, and I ought to add here, Mr. Peterson as I understand it President of the Company has said that that agreement is no longer going to be used. But for purposes of our discussion, that installment sales contract did have attached an appendix, certain exhibits which describe very specifically where the money was going to be used. That a portion of it was going to be used for certain new facilities, expansion improvement of those specific facilities and other monies which were going to be used for refinancing of facilities that have already existed. So, when you're specific about the way in which you're going to use the money, that is one thing, but when you say, well, we want to refinance because that will enable us at some future time to expand and to build new facilities and make improvements on other facilities then that is too general and too vague and it can't be done in our view under the statute.

Senator Sumner: And you're saying that the application as it is made now, to the best of your knowledge, does not specifically outline how the money is to be utilized in such a way that it would imply expansion?

Mr. John Lenahan: Once the \$10.5 million dollars in short-term financing is paid off with the bonds, there is going to be a certain increase in the cash flow to the company in particularly for the first two years because there are no principal interest payments as we understand it provided for in the proposal.

Senator Sumner: Are you absolutely sure of that statement?

Mr. John Lenahan: Well, I'm only sure of what we have seen. We've been provided with certain documents, some of which we're now told are invalid. And all I can tell you is that we have to operate on what we have received from the Authority itself and from its counsel Mr. Wohlforth. But on the basis of those documents and from a schedule of repayment on the bonds

it appears that the first two years they didn't have to pay the principal interest and what they do with that money is unclear. That is not specified. We've heard they are going to use some of that money to make progress payments on some new aircraft but they are not committed to doing that, and therefore the money is, seems to us, free to be used for whatever they chose.

Senator Sumner: If they did permit or if in other papers that maybe you haven't seen yet if there was the commitment for the purchase of additional aircraft would that in your mind imply expansion?

Mr. John Lenahan: No, because, we were asked this question at the Municipal Assembly and our point is that if you take these bond proceeds that have been, that are to be authorized, or maybe authorized, and you apply them to refinance your short-term debts and you convert it into long-term debts and you thereby gain an increase cash flow and improve your cash flow situation, even assuming you take some of those monies and put it into the purchase of new aircraft that means that you have freed-up other monies that you might otherwise have had to use for other purposes. So it is kind of a continuum, and our point of view is that at this point in time there is a labor dispute on the property, the pilots are applying in a very lawful fashion in the course of a strike economic pressure on the company. By allowing the company to have the benefit of this bond issue for refinancing you are relieving them of that economic burden. The question is whether that is right or wrong? As far as I can see, because Mr. Wohlforth and the company has said in the past that is right, that is exactly what we want to do, we want to improve our cash flow and our capital structure and there is nothing wrong with that, that is perfectly appropriate under the statute so that is where we've joined issue.

Senator Sumner: In regards to Wien's financial condition, in any of the data that you have received, have you had the benefit of seeing any financial statements or are you aware of the financial condition of Wien Air Alaska?

Mr. John Lenahan: Yes, we have some information. Of course it is provided to the Civil Aeronautics Board as a matter of their reporting of bonds and so we do have some information in that regard, yes.

Senator Hohman: Senator Sumner your question?

Senator Sumner: In regards to one of the areas that you have also touched on, sort of, that I keep relating back to the Resolution, is the question of neutrality. Is it your opinion that the strike has, in terms of economics, is that, as the strike goes on is that an economic burden to Wien in terms of its current financial condition?

Mr. John Lenahan: Yes, we think so, and we're not afraid to admit that that is the purpose of the strike. It is an economic pressure that you place on the employer in a situation in which you cannot come to an agreement at the bargaining table. And we feel that we've had that effect.

Senator Sumner: Other than a subjective view is there any data that you extrapolated that would indicate that?

Mr. John Lenahan: Well,

Senator Sumner: In other words, have you come to that conclusion?

Mr. John Lenahan: Well, one way you come to the conclusion is by looking at the CAB 41 forms, the reporting forms that I've discussed. For the last several years you can look at the income and the expenses of the company, over the last several years, and you see a marked change between 1975-76 and then 1977 since there has been a strike.

Senator Sumner: I would agree that if the loan proceeds would benefit in such a financial way as to pay maybe account payables or maybe fuel bills or delinquent ongoing pressure accounts, I can visualize that a loan to refinance and windup with some cash flow in the kitty, would conceivably, would most definitely violate the neutrality as it implies here, but I'm trying to determine on the other hand that if their financial statements and or existing financial condition does not show that depletion then, of course, the infusion of the money for the purposes of their implied expansion would not violate the neutrality. In other words, if you could indicate somewhere or another that the strike went on for two years and if you could show that Wien's funds would be depleted to the point that they would have to compromise, that certainly would be an argument well received here. On the other hand, if there isn't something to imply that or indicate that then it seems like the infusion of these dollars would not be critical to the settlement for the pilots now.

Mr. John Lenahan: Well, I think that would be all or nothing argument and I don't think that a strike is an all or nothing situation. There is a difference between putting an economic burden on a company that reduces their profits and increases their expenses and completely bankrupting them. There are very few unions that would ever attempt to do that simply because by doing that you just deprive yourself of future employment. You no longer have an employer to go back to. And that is particularly true in the airline industry since pilots live and die virtually by seniority. Once their company goes under they go to another company but they start at the bottom of the ladder so the idea is not necessarily to bankrupt the company but to apply a continuing economic pressure on the company so that they will sit down and bargain in good faith. So the answer is, I can't tell you, that if the bonds are not given to Wien Air Alaska for refinancing and if the strike continues for two years that Wien is going to go out of business. I don't think that is what the pilots want nor does the company nor does the public. But it is going to be increasingly more difficult for them to maintain a profitable operation and that is in the nature of the strike.

Senator Sumner: I am not trying to labor the point with you, but I am trying to get a clear understanding of what your view is and so I want to ask I believe a bit more direct view. Is it your opinion that the profit picture or the loss picture, whichever, of Wien Air Alaska, is it in your opinion significantly improved or not as a result of the strike?

Mr. John Lenahan: Well, I think the strike has had a significant impact on the profit picture of the company, and in terms...

Senator Sumner: In what way?

Mr. John Lenahan: It has reduced it, it has reduced the profit and on the other hand when you are talking about the bond issue, I think that if the bonds are issued there will be a substantial impact on the cash flow of the company which will be favorable to the company.

Senator Sumner: Mr. Chairman, that is all I have.

Senator Hohman: Mr. Kocsis, do you have any questions?

Mr. Rob Kocsis: Yes. Do you have the date of the strike, Mr. Lenahan? The date that the ALPA people went out?

Mr. John Lenahan: I believe it is May 7th, yes May 7th, 1977, Mr. Kocsis.

Mr. Rob Kocsis: Am I correct that that strike is still continuing?

Mr. John Lenahan: It is still ongoing. That is correct.

Mr. Rob Kocsis: That is all, sir, thank you.

Senator Hohman: Do you have anything else, Mr. Lenahan?

Mr. John Lenahan: No, Mr. Chairman, I don't. I believe that there might be some other members of the Wien Airline Pilots who have indicated on their sheet that they might wish to testify also, but I have nothing to add at this time.

Senator Sumner: Mr. Chairman, let me just follow an item here for a minute?

Senator Hohman: Fine, go ahead.

Senator Sumner: Do you know off hand what date Wien submitted the application for the loan? If you don't know we'll find out later.

Mr. John Lenahan: But, I can only say that I do not know when they submitted the application, the resolution, the enabling resolution that you wrote was passed by the Authority on June 16th.

Senator Sumner: On June 16th?

Senator Hohman: By the legislature?

Mr. John Lenahan: No, I'm sorry by the AIDA. On June 16, 1977 they passed a resolution authorizing the go ahead with the issuance of these bonds, not the final issuance but to proceed.

Senator Sumner: Do you have any idea how long efforts have been underway to secure this financing? Prior to the strike?

Mr. John Lenahan: Well, I can't answer that specifically because I don't work for Wien and I don't know what they were doing. But we've been told I think that it was stated at the Municipal Assembly meeting in Anchorage by representatives of the company, that they had been discussing the issuance of these bonds back in March of 1977. That was at a point in time when the negotiations were virtually at an impasse and it is also curious because, of course at that time the statute had not been amended, it did not specifically provide for airport facilities in terms of the chain of benefits of these bonds.

Senator Sumner: Maybe in a subjective sort of direction if the strike were not on, if one can conceive that for a minute, and if their own application was pending given your concerns about the confusion that exists in terms of the statute etc., and assume he is making one credit assumption is that part of the proceeds ultimately wind up in the purchasing of new equipment would you still be opposed and would you still have the view that the loan should not be granted or that we should not proceed with the loan?

Mr. John Lenahan: I don't know if you are talking about airports in terms of new equipment. I don't know that the statute provides for the issuance of bonds for the purchase of airplanes. Perhaps it could be argued that that would come to mean within the meaning of some terms in the statute, I don't know.

Senator Sumner: Well, assuming that the refinancing, the loan or application as it exists now, if it were still pending and it was, as you have indicated earlier, you would understand that though there was no obligation it conceivably there would be some equipment purchased or some airplanes purchased with the capital that would be freed-up, so to speak, if that were the situation pending before us today would you still have the view that you have now that the AIDA should continue with the application or should not continue with it?

Mr. John Lenahan: The sole purpose of attaining those proceeds was to put into the purchase of new aircraft?

Senator Sumner: No, I made the, I'm asking you to make the assumption that the application pending is, as you understand it is now, where there is some refinancing that would free up some dollars which would buy some aircraft. If that was the proposition that was before us, would you be in favor in your opinion, would your view still be the same? That the Authority should not grant the loan?

Mr. John Lenahan: Yes, sir, that is right.

Senator Hohman: Just one question, Mr. Lenahan, when in your introduction you went through the history of the Development Authority and while I was there, I don't have the date, but did you indicate when the amendment was passed, last years amendment? The amendment to the AIDA?

Mr. John Lenahan: Well,

Senator Hohman: Mr. Mercer supplied us with May 29th, but I thought that you had said that ...

Mr. John Lenahan: I may have, I wanted to make sure that that was accurate, that is all. I am looking for the legislative history that we have.

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Senator Hohman: There are no further questions, so thank you sir.

Mr. John Lenahan: Thank you.

Senator Hohman: Mr. Ross Carswell, would you like to present testimony?  
Would you identify yourself and your affiliation?

Mr. Ross Carswell: I am Ross Carswell, I'm one of the striking Wien Pilots speaking in the absence of the association of the striking Wien Pilots. My questions and my comments will relate, as I see we are limited in what we can say here, to disclosure and how this would relate to the implementation of the Act and the particular loan we are talking about. As Mr. Lenahan stated we had been supplied early in this month, I believe it was the 4th of January, by Mr. Wohlforth with - we were furnished with five documents. Two of them were copies of the minutes of the Authority meetings, the other three were the indenture trusts and the guarantee agreement and the installment sale agreement. We made use of the installment sale agreement for developing our inquiry into this matter and we used it in detail on many occasions including before the village councils and the Anchorage Municipal Assembly. On the 17th for the 19th of this month we were invited by Mr. Peterson out at the City of Dellingham during the council meeting there that that agreement was in the waste basket. I would like to suggest that the Committee would probably want to know whether the Authority or the bond counsel, having supplied us with those documents, was aware earlier that these were obsolete or otherwise irrelevant documents. And if, I would be interested to know and I think that you would be, if that was ever contemplated to have been a viable financing agreement and if it was why is it no longer and when was it known that that was an absolute document. Because quite obviously we used this thing, we relied heavily on it for our information base and only just very recently have we found out that it is obsolete. A bond counsel has stated that the pilots will have ample opportunity to make their views known at the hearing in which the final approval is considered by the Authority. And my questions and I think that the Committee might well address these also is where is the requirement for such a hearing spelled out, as we haven't found it anyplace other than that we understand that there will be one. Does the Authority intend to make all documents available to the pilots prior to that hearing, how much time does the Authority consider it is reasonable for the review of these documents by interested parties prior to the final approval hearing? And would the final approval be granted or denied at the time of the hearing or delayed for study of the testimony? And assuming that Mr. Wohlforth was fully aware of the key status in the installment sale agreement which he furnished to the pilots why did he never advise them that the installment sale agreement was obsolete or otherwise inapplicable? I suppose that could have happened maybe the day before the 19th of January perhaps he didn't know it was obsolete but it appears that that might have happened quite some time earlier. I think that is all the questions I have at this time.

Senator Hohman: Are there questions of Mr. Carswell?

Senator Sumner: There are some in my head. I don't know if I can phrase it properly, Mr. Chairman, let me just thumb through some of these. Are you aware of how long the pilots have been attempting to get information or data from Mr. Wohlforth?

Mr. Ross Carswell: Yes, sir, I'm - my first indication I have on my notes is on the 19th or I believe it was before the 19th, perhaps it was the Monday the 19th of December that Mr. Germaine, our attorney in Anchorage began to attempt to get information from the Commissioner Mr. Hubbard. On the 20th Mr. Lenahan talked to both the representatives from the First Southwest

Company and Mr. Wohlforth and they were able to get a certain amount of vague information, including the fact that the bond sale was delayed indefinitely for mechanical reasons. They were physically unable to have all the necessary printing completed because of the Christmas rush. Mr. Wohlforth at that time said that the pilots avenue of relief was through testimony at the final approval hearing. On the 21st, Mr. Wohlforth reported to Mr. Lenahan, or correction, it was reported to Mr. Lenahan that Mr. Wohlforth is said to have some of the documents that he referred us to Juneau for. Formal requests for documents was filed on the 22nd with Mr. Wohlforth. On the 4th we received those five documents that I referred to in response to that...

Senator Sumner: On the 24th?

Mr. Ross Carswell: No, on the 4th of January. Now on the 27th of December letters were sent to the Commissioner of Commerce and the Commissioner of Revenue requesting a long list of any and all documents that complied. We received those documents last Wednesday. I don't have the exact number of days but I would say that through the mail, delivery and so forth it took three weeks involved in securing those documents. Other than those, only the first five original documents that I mentioned have been made available and as we learned unofficially from Mr. Peterson, from Wien Air Alaska, the one on which we relied most heavily and which we had no reason to think was anything but a valid document is in fact an obsolete document.

Senator Sumner: Are there specific, making the assumption that the document that you relied on was valid, what specifically did you object to in that document?

Mr. Ross Carswell: Well, there was a section that made reference to the escape clause whereby certain obligations to the company - they would have been exempted from certain obligations on account of a host of reasons including the strike. Of course, we considered that the entering into such an agreement by the State would have (251)\* with a free existing condition as far as (252)\*, was inappropriate, an already built-in exemption for the company. There was also the, of course now we were on one hand, we saw the resolutions of the Authority which made reference to specifically insuring that construction of projects under exhibit B would be accomplished whereas in the installment sale agreement there was ample provision for any of the projects under exhibit B; that being new construction, could be omitted for a variety of reasons. I would have to go to my notes to find other examples of the specific problems we had with the installment sales agreement.

Senator Sumner: I understand, but I can see the different point coming up. Thank you.

Senator Hohman: There is no further questions, thank you Mr. Carswell. Mr. Gary Mercer, you indicated you would like to testify.

Mr. Gary Mercer: My name is Gary Mercer, and I am one of the striking Wien pilots. I think I would like to address some of the questions that Senator Sumner proposed to our counsel Mr. Lenahan. You asked what indication we had of financial damage or economic damage to the company as a result of the strike. The company's published third quarter report shows the year to date figures in terms of profit or loss for the month of September, the end of the third quarter. And it makes reference to the fact that the company in the

previous year for that same month through the nine month period had earnings of approximately \$2.4 million dollars in profits. In the nine month statement for this year it shows a \$268,000 dollar loss. On the back side of it there is some verbage to the effect that these losses were attributed mainly due to the pilots strike and due to the leveling off of business as a result of the completion of the pipeline. In addition, it mentions the sale of aircraft. The company has disposed of assets since the strike began. They have sold four of the twin-otters, three of the F-27's and two of the skyvans. The skyvans were on lease purchase agreements. One of them as since crashed in Hawaii and the company has received the insurance proceeds from that. The other skyvan is, in my understanding, has been repossessed by the company and is on its way back from Hawaii. So they have been disposing of assets which would be an indication that balanced against the losses that are actually posted, there are part reader losses then which show up on the paper. I have had an opportunity to look at the loan agreement, the existing loan agreement between Wien Air Alaska and the Seattle First Bank, who through a consortium of five banks, on March 28, 1975 loaned Wien Air Alaska \$27.5 million dollars. The provisions of the loan are that \$22.5 million dollars will be paid back under installments quarterly, \$750,000 per quarter plus interest at 2 percentage points above prime and that the additional five million dollars is a balloon payment due on September 30th, ten months from now. There are conditions that allow for three payments towards that \$5 million balloon to the effect that 25% of the company's net annual cash flow has to go as a prepayment towards that \$5 million dollar balloon. There are also provisions that the company cannot pay a dividend until that 25% of the net annual cash flow has been satisfied. Further provisions are that the company cannot borrow more than \$2 million dollars for eleven months during the year. The provisions specifically state that they must be thirty (30) days per year free of all of their debts except for this loan agreement between them and Sea-First and the consortium of the five banks. It is a fairly tight loan agreement as has been stated on the floor. It is short-term, it is an eight year note. The \$750,000 dollars per quarter payment toward the \$22.5 million dollars plus interest, if we take the \$10.4 million in comparison to that, it is said that that is to take care of a short-term debt. That is roughly 45% of the \$22.5 million dollars which is being paid on these quarterly installments. So we can see what approximately the cash flow that is freed-up from or going forward on this AIDA bond proposal. If the 45% of the \$22.5 million is taken care of immediately from the bond proceeds, we will be looking at roughly 45% of that \$750,000 dollar quarter figure plus interest as being cash flow that is freed-up. Mr. Flood testified in Anchorage at the Borough Assembly meeting that his understanding was approximately \$200,000 per year in cash flow that would be freed-up by virtue of the fact that they would have to make no loan payments of interest or principal for the first two years under this AIDA proposal. 45% of \$750,000 per quarter plus interest is far greater than \$200,000 annually. You asked the question also, Senator Sumner about trying to differentiate between expansion and refinance in terms of what the company intended to use the proceeds of its freed-up cash flow for and they have also testified before the Anchorage Borough that they intend to purchase three new aircraft that they have to place \$25,000 per aircraft to the loaning company in escrow to guarantee their place in the production line as these aircraft are produced. They say they have to do that sometime by March, this coming March. If the bond sale is allowed to go forward in relation to how it could interfere with our labor dispute you have to look

at it from the standpoint that even if they do intend to purchase new aircraft with portions of the freed-up cash flow that is going to give them a greater ability to generate more business for the company which is a change in the status quo that existed at the time of the strike and it definitely assists the company in its ability to withstand the economic pressures that we have been able to bring to bear. Another question that you addressed to Mr. Lenahan was what would our position be if we were not on strike and the same loan application was pending before AIDA. I think I can answer for a large portion of our pilots. I don't know too many of them that read Alaska statutes but for my own purposes I probably would have remained totally naive about the Alaska statute the AIDA and so on and I would have been more concerned with operating the aircraft from point A to point B for the company and receiving my monthly enumeration for that. In other words, I probably would have been totally ignorant of the financial arrangements that the company has gone to to obtain relief under this economic pressure that we have been able to bring to bear. And I think that should we allow this bond proposal to go forward, there is no question of what it definitely effects the capital structure of the company of whether it would be for new aircraft or otherwise. I am finished with my testimony and if you have any questions that I could answer.

Senator Hohman: Are there questions of Mr. Mercer.

Senator Sumner: Mr. Mercer, in the neutrality portion of the Resolution, at least in my mind, it applies both ways. And one critical determination that I think has to be made is, would this application - if there were efforts underway to apply for a loan - strike notwithstanding, and if the thing seems like they should have progressed or would normally progress in terms of granting that loan then to intercede simply because it serves to the disadvantage of the pilots would be violating that neutrality as well. So it is not, and I want to make you understand that I don't think that, it certainly is not my view to take your side or anybody else's side but only to address myself in terms of what is the most objective route to go and that is the reason I am saying that we are really right down the middle on that neutrality bit. You seem to have an indepth knowledge of Wien's financial structure, is that essentially true?

Mr. Gary Mercer: Only from the documents they themselves provided to both their stock holders and the Civil Aeronautics Board.

Senator Sumner: So, making the assumption that those are factual documents, you have a pretty good knowledge of their financial structure?

Mr. Gary Mercer: Yes

Senator Sumner: Would you say then that on the basis of going from \$2.4 million profit to minus \$268,000 dollars loss, that that has put them in a critical or severe financial condition?

Mr. Gary Mercer: I would say that perhaps that in conjunction with the fact that the balloon payment is due on September 30th of the original note, there is definitely a cash problem in terms of the cash generating ability of the company at this time.

Senator Sumner: So you would conclude, at least at this time, that on the basis of what you know or have seen in the documents that Wien is in a critical or severe cash flow bind? Is that your view?

Mr. Gary Mercer: That is my view based on the documents that I have obtained and looked at, yes.

Senator Sumner: That is all I have to say.

Senator Hohman: Thank you Mr. Mercer. The roll sheets indicate that three people would like to testify on behalf of the striking pilots. Is there anyone else that would like to be added to that list. If not, then we will return after a short recess with Mr. Ray Peterson, who is the only person that has indicated that they would like to present the Wien side of the argument or testify on their behalf. We stand in recess.

I call the hearing back to order, please. We are going to begin with the people that are listed as representing the Alaska Industrial Development Authority, I believe. No, I'm sorry, Mr. Rayford Price, you are listed as a purchaser of Wien bonds? (Audience voices - Inaudible) I would like to yield to Mr. Wohlforth, then. Lets have Mr. Wohlforth come up next and then we would have Mr. Price and then Mr. Kurley. Mr. Wohlforth.

Mr. Eric Wohlforth: Mr. Chairman, my name is Eric Wohlforth, I was referred to by the previous testimony as having lost my objectivity and I hope I can retain it before this hearing and enlighten you on some of the remarks that were made, even though it was a little bit surprising to hear an attorney recommend that you be fired for representing your client or representing the Authority. A little bit of resitation of history on this Act and I will try to be brief. It was stated the Act originated in 1967, a little over ten years ago. At that time there was one financing in contemplation for a large L & G plant these thought's marathon plant (579)\* which was not financed by the Authority, simply because at that time there was considerable Congressional education on the whole subject of tax-exempt financing for industrial development purposes. In the Act, it is true that the Atlantic Richfield Corporation sought to finance through the Alaska Industrial Development Authority in 1974. The record will show that they tried many times to convince members of the Authority and quite frankly the then Governor of the State, Governor Egan, that this was an appropriate vehicle. The Governor decided that it was (582) \*, since it was 1974 at that time and after many attempts to persuade him that it was an appropriate subject of financing for the State to undertake, not to utilize the Authority, even though at that time there was one percent of the financing proceeds available as Atlantic Richfield stated available for the State of Alaska. These were efforts that I was very closely involved in during the spring months in 1974, on an intensive basis for almost four months time in Juneau and subsequently we went to the City of Valdez in September or August of that same year. And, Mr. Chairman, in February of 1977 the first issue of those bonds, those industrial development exempt facility bonds were issued by the City of Valdez for Atlantic Richfield in the amount of \$250 million dollars. Subsequent issues brought the total up to \$1 billion 263 million dollars (\$1,263,000,000) and the City of Valdez gained in their tax coffers in a permanent fund which they created \$12 million 630 thousand dollars (\$12,630,000). I submit, Mr. Chairman, that it was not any legislative infirmity in that AIDA statute that caused the applicant oil companies and Atlantic Richfield not to utilize the States financing vehicle but that the minutes will abundently show that there was apprehension on the part of the then administration that somehow making available the benefits of this financing to an oil company might be politically disadvantageous. There were however no legislative infirmities in the Act and nothing in the Act which caused the then Authority which the record will show was an attempt to be persuaded on numerous occasions to do the financing. It was the disposition of the then Governor that the financing should not take place with the name of the State of Alaska, Alaska Industrial Development Authority. As far as the internal consistencies, in my opinion, the Act makes it abundently clear, that there is no possibility of relief from local or state taxation for any financing that takes place through the AIDA. The sentence that was added in 1977 clarifies any question, any doubt, that may exist in anyones mind that such tax exemption might result in financing through the Authority. It typically (883) \* as these Authorities or as cities or as state authorities have financed in other states. Local tax exemption is not

\* Tape side # 2

granted because it is not the purpose or intent of this financing vehicle to have anything to do with local tax exemptions but merely to provide a state means to achieve tax exempt interest free financing as Congress has permitted under Sec. 1.03 of the Internal Revenue Code.

Now, insofar as it has been stated that I and my office have withheld documents or make a difficult project for counsel or members of the Pilots Union to obtain documents, it must be borne in mind that the financing documents which I did give to counsel to the Pilots on the 12th of January were draft documents clearly labeled as such. A draft installment sales agreement, a draft indentured trust, and minutes which were final minutes of the Authority. The request for documents which I received on several occasions from the Pilots and their attorneys and by letter were for final documents. The documents have at all times been in a state of drafting, they have not been final, and indeed were the work product of the various attorneys involved including Mr. Price's office and mine in preparing and getting ready to accomplish the financing. There was no attempt at any time to hinder or delay any request for information. I met with Mr. Lenahan on one occasion and we exchanged our different legal views as to the effect of the statute and I was most reluctant at that time and I still am reluctant and wonder if I have made the right decision in giving to the Union what were essentially draft work product documents which are in no way are a State record and which were being in process of finalization amongst the attorneys involved. And insofar as the draft stage of the documents is concerned, I think it is perfectly logical and legitimate when you recognize that the financing has been in effect substantially reduced from its original, originally contemplated \$19.1 million size, by the withdrawal of the municipal consensus, the determinations to reconsider withdrawals or recisions and that there could be no final documents or pinpointing of amounts for any purpose until the financing achieved a level of stability such that the parties involved could know at least with some particularity the amounts to be financed. It is true the Authority has no paid staff, that I submit is not my fault. I have urged them to the effect to find a staff member and I'm in hopes that the Authority will do so. And insofar as my complaints that I have been harassed, I did on one occasion call Mr. Germaine and I said that it would be a convenience to me if the members of the Union follow their quest through him. He agreed that, yes, it would be a convenience and he would seek to urge them to do so. Finally, insofar as the whole posture of the financing is concerned, the Pilots Union has been informed by the Governor in response to their telegram to him, and been assured that if, as, and when documents and agreements are ready for presentation to the Authority for its financing, the Authority will hold a meeting on ample public notice to consider that financing. You may be assured at that time you'll be specifically invited to attend and present any matter which is relevant to the financing. He went on to state that the preliminary indications were that the Wien project complied with the statutory purposes of the Authority and that it was that the legal configuration of the financing... (End of side #2)

Mr. Rob Kocsis: Mr. Wohlforth you're back on again.

Mr. Eric Wohlforth: As I was saying there would be full public notice and full opportunity to attend and although I can't speak more directly for the members of the Authority I anticipate there will be no limit on testimony other than that which is reasonable to accommodate a regular business day and that every

effort will be made to hear both sides of the matter for the Authority to enter, to make its final decision. And I believe that it is the proper form, I submit, for the kinds of arguments that are being made today and those which have been made to the various City Councils and Borough Assemblies before the Authority, which is a statutory created board by this legislature to hear and decide on matters of this sort. And indeed, when the documents are in final form such that there is no confusion to the parties, that the attorneys may not have seen some portion of the documents and redrafting them towards getting the financing in the kind of form it should be in, that those documents would be available for inspection to be considered by the Authority. Specifically, directing attention to the Resolution itself, it is my position that the recital which appears on page 2, line 14, that the proposed installment sales agreement between AIDA and Wien Air Alaska, well under that document in event of default by Wien the State would become owner of any facilities involved in the project and would be required to pay debt service on the bond issue involved, is I submit, at best a misunderstanding of the proposed sales agreement in its draft form, and is an incorrect understanding of the kind of financing that can take place only in this statute. The benefits of all financing documents are pledged to a trustee for the benefit of the bond holders. The State is in no way liable on the bonds and could in no way be liable if they were ever required to pay off the bonds. Any attempt to put the State in this position would be illegal and unenforceable, as since as we know, State liability on bonds require the vote of the people. I don't know what clause in the draft document gave rise to that misunderstanding but I can find none and indeed the installment sales agreement and the trust indenture, in numerous places, exclude any possibility of State liability on the bonds, on the indebtedness, and make it amply clear that the liability on the bonds is only that of Wien Air Alaska. I think the omission of this recital which is the only area which I can conceivably see giving rise to the conclusion, as a matter of law in the end, that the Governor be requested to direct the Authority not to endorse or assist in the financing. The exclusion of this recital is legally and factually incorrect, and makes the conclusion equally inaccurate and incorrect. Now returning a moment as I should have mentioned a moment ago to the Valdez financing because that is the one series of bond issues undertaken in the State for industrial development purposes under the provision in the Internal Revenue Code which comes right next to the provision for air transportation facilities and that provision was for exempt port facilities. As I stated earlier, that financing took place over the time frame from mid-January 1977 pursuant to an Internal Revenue Service ruling. Bear in mind there has been no prior resolution of the Alaska Industrial Development Authority. That financing took place on the order of \$1.263 billion through August, 1977. We all know that the terminal was complete and received its oil from the North Slope and shipped its oil in August of 1977. We know that short-term financing in cash generated by the oil companies provided for the funds to construct the Trans-Alaskan Pipeline terminal. The case is very similar to the instant case where we're dealing with facilities which have been completed but nevertheless were designated by the Internal Revenue Code as exempt facilities notwithstanding their completion. And I submit the largest single issue or single series of issues public financing in the

United States in many years for tax-exempt facilities under the same provision of the Internal Revenue Code, the very same paragraph could not rest on infirm or questionable legal grounds. Either under State law through the powers of the City of Valdez or as to tax exemption under Sec. 103 of the Internal Revenue Service. The Service states the kind of facility which may be financed, they may be dock facilities, air or water facilities. In both cases the facilities had been completed in part and in total for all practical purposes for the tax range total. They were financed and I believe properly sold by the City of Valdez under its charter called moral powers. Now there are other issues, Mr. Chairman, which are coming to this Alaska Industrial Development Authority which is by every odds a late comer, as is the State of Alaska in assisting industrial expansion, even though this is a perceived goal of our legislature. Forty states in the Union have authorized this kind of financing. In Alaska we have managed one very large issue, not at the State level, for the City of Valdez. We have business now before the AIDA, Ketchikan Pulp Company which is now owned by Louisiana Pacific, plans an issue of very shortly over \$30 million dollars in pollution control bonds. They have recently received a specific IRS ruling which is requiring the pollution control facility and will be before the Authority soon with final financing documents. In addition, Alaska Airlines plans to finance a facility in Anchorage as does Alaskan Pipeline Company, which is a subsidiary of Alaska Interstate Alaskan Pipeline Company, for a pipeline facility on the Kenai Peninsula and a distribution facility in Anchorage. So the State is embarked, after somepoint considerable delay on what I conceive to be, when they editorialize a progressive program of making available to Alaskan industry, which qualified under the specific section in the Internal Revenue Code, making available tax exempt and therefore cheaper long-term financing. Now, these companies, and hopefully there will be more of them, may well have rate proceedings before the Public Utilities Commission. Certainly the Pipeline Company may well interface and possibly does with various State regulatory agencies, and there maybe in the case of a pulp company or other qualifying Alaska facility, very real questions of State public policy on such matters as rates, environmental control, pollution control or otherwise. And these questions all have their proper form or ultimate decision and will proceed to their ultimate decision. This I would find it, and I think it would be extremely unfortunate, if in any other case the State or the Legislature determines that the benefits of tax exempt financing were unavailable to a major or smaller company because of some written proceeding which might be pending in the case of some public utility or environmental argument which might be pending in the case of a pulp company. Congress has specifically said, and Congress rarely says things which benefit and permit states to act with the freedom of action that is permitted under this Act, but Congress has said, yes, states you may permit these kinds of industries to finance their bonds at tax-exempt rates, and the effect of those bonds of that tax exemption will mean that buyers do not pay income tax and that the rates borne on those bonds will be considerably less then if they had financing on a regular corporate basis. Congress has given that permission. Other states have encouraged and aided companies to take advantage of that permission, on which can very substantially assist industries to expand and to develop in a State which certainly needs industry. I would think it very unfortunate, however, if this particular Authority, with a statutory mandate to consider, the items that it must consider in determining whether or not financing took place, in fact was governed by collateral issues such as are urged on you today. And I might also say, without trying to be an alarmist, that lenders and potential bond purchasers will expect you, the Authority, to act in conformity with the statutory mandate and will be concerned if a particular financing,

which involves a great deal of legal and financial preparatory work before it is brought to the Board is subject to collateral considerations beyond those specified in the charter of the Authority given to us by the Legislature. I'd say that the action of the Legislature on this Senate Concurrent Resolution 73 will have a very real measure of content in terms of the viability and ability of this Authority to actively interface with industry which seeks assistance through it in Alaska and on the financial ability of some of the pending projects which are before us right now.

As far as some of the detailed questions on Wien Air Alaska finances Mr. Ray Peterson can speak to that far better than I and Mr. Jim Kurley who is with First Southwest Company, which has been involved with airport, airlines tax-exempt financing to others of that nature for many years, and can speak to that area of expertise, and Mr. Ray Price who is working on us with his documents and his draft was submitted to the pilots at their request can answer general questions on the form of legal documents. And I can assure the pilots that are here today that the Authority will not entertain any change in these documents which have a form which go to the vital question of State liability or whether the State can become liable on these bonds or for the payment of this debt or in anyway become liable with respect to the transaction. The final documents will secure and support what is mandated by the statute in that regard, and will bear substantial, if not complete similarity, to the kinds of provisions that they have dealt with here before you. There is no question these are lengthy financing type of documents the provisions of which are designed to assure lenders, they've grown in size of course, was your clause which was talked about which is the Acts of God clause in the trust agreement, and names 25 different events all the way from earthquakes to tsunamis to strikes which permit the relief of a contractual obligation as exist in common law and as are stated in the documents. These are typical of the kinds of detail provisions that financing documents contain and that really require to be in for lender approval and acceptance. I've probably omitted some of the items I would like to talk to you about but I'll be up for any questions that you may have Mr. Chairman or Senator Sumner. Thank you Mr. Chairman.

Senator Sumner: Thank you Mr. Chairman. You seemed to indicate at two separate times or referred to State liability. Where is it spelled out? In the documents that you prepare have anything to do with - what is the document called that spells out State liability or at least tells the bond buyers that the State has no liability. I mean they're not going to read the statutes. Where would they find this?

Mr. Eric Wohlforth: The bond buyers will see it on the bond itself where it is spread in bold print. There is no confusion since the word Alaska is on the bonds, because it says Alaska Industrial Development Authority and the bond will say that in no event is the State liable on this bond nor does it contain a budgeted vote for any credit of the State and that there is no liability. So the bond itself which is contained in the trust indentures, in the form of which is contained in the trust indenture, will be the ultimate document, telling the bond purchaser that he has no rights to the State of Alaska in any way, shape or form. It occurs elsewhere throughout the various underlined financing documents as well.

Senator Sumner: You reviewed Senate Concurrent Resolution 73?

Mr. Eric Wohlforth: Yes, Sir.

Senator Sumner: In your opinion you are expertly familiar with the statutes that cover the Alaska Industrial Development Authority?

Mr. Eric Wohlforth: Yes, Sir.

Senator Sumner: To the best of your knowledge is there any statutory reason or statutory requirements that have not been complied with in their entirety as relates to the loan under-partners?

Mr. Eric Wohlforth: Well, Sir, we have had an initial meeting of the Authority as it has been alluded to in June and this application with others was given preliminary tentative approval. The specific findings that were required were made at that meeting. The further hearings which have been held and (221)\* consensus that you can obtain to the extent that they're still effective with the various municipalities as a prerequisite for that financing. The final meeting of the Authority, which I alluded to, which will consider the financing and consider adoption of the final documents has yet to come, of course.

Senator Sumner: I'm personally not knowledgeable of the sequential steps that follow in this exactly, what your authority is or where it stops in terms of speaking for the Development Authority. But, (235)\* Inaduable

Mr. Eric Wohlforth: Well, sir, someone said and I don't know who it was that I should not speak on this subject to public bodies because I have vested interest in the nature of the legal fee or commission. And if that is of concern to people I'll gladly disclose what our contract is with the Authority. I know Mr. Kurley is delighted to disclose his. I didn't know it was an issue with counsel of the Pilots Union till today. But there is no intent or desire to hide that document and, yes, in fact, since the Authority enjoys no State appropriation and will enjoy no actual funds until it completes the financing, my compensation is dependent upon the completion of the financing. We have the same arrangement with other bond issuers and it is more typical than not for bond counsel to offer it on the basis of I suppose it could be called a contingent fee with their paying any advance monies until the financing takes place. This is, I think, almost universally true with bond counsel in major financing transactions throughout the country and it is the case with a number of our clients in Alaska whereas with other clients we operate on an hourly basis. So, I'm not, there is absolutely nothing that I feel ashamed of in that arrangement. I think it is the only practical one under the circumstances and of course had I known that there was a specific desire to see my letter of agreement with the Authority I would have promptly supplied it. I have no problem with that at all nor does I'm sure Mr. Kurley. In fact that is a little bit personally distressing because we did have from Mr. Germaine a letter in which said supply us with every document relating to this transaction and every piece of legislative intent. The documents that I had in my possession were minutes of the meetings which of course the State had as well. I had nothing in my possession relating to any actions of the Authority prior to our retention this year, which occurred during the summer. And there is a great bulk of paper obviously as applicants have sought to go unsuccessfully before the Authority before that. But we are perfectly

willing, I am certainly, to supply the fee letter to the Committee without any problem at all.

Senator Sumner: One of the concerns that is generated in regards to some testimony by Mr. Gary Mercer, you're aware are you not that the AIDA can make loans only in those instances where conventional financing would otherwise be available and Mr. Mercer stated that he had, I'm not trying to quote exact words, but an indepth knowledge on the basis of information that he had seen that Wien was essentially in a critical or severe financial position. If that were the case, then my question to you is would they be eligible for conventional financing if they are in a critical or severe financial condition? Or to the best of your knowledge would they qualify for a conventional loan and are they, in your opinion on the basis of what you know, in a critical or severe financial condition?

Mr. Eric Wohlforth: No, I don't, and again this is the area of expertise in a financial advisor. But I'm certain the financing wouldn't have been pursued with the extent it has been were conventional monies unavailable and I do not know that they are in a critical or severe financial condition. It is very true that this is essentially a financing vehicle for lenders who can access the taxable bond market. It gives those lenders an opportunity to access the tax exempt bond market and at the same time access a new group of lenders who are interested in tax exempt bonds, specifically other than banks.

Senator Sumner: Which one of the people following you will have a specific knowledge as to Wien's financial condition and how that would relate to the conventional market?

Mr. Eric Wohlforth: Well, Mr. Peterson has eminent knowledge I believe of their financial condition and Mr. Kurley can speak specifically on the likelihood of being able to, for this loan to be brought to the Authority for its consideration because as the Authority's financial advisor he has been working on that effort.

Senator Sumner: OK, that will be all.

Mr. Rob Kocsis: Mr. Chairman, I have a few question for Mr. Wohlforth if I might?

Senator Hohman: Sure

Mr. Rob Kocsis: Mr. Wohlforth, is it your opinion that it would be illegal for the State to involve itself in any way with its credit of the State in this kind of a project?

Mr. Eric Wohlforth: Oh, absolutely, the credit of the State cannot be pledged in this, through such a means or devices, yes.

Mr. Rob Kocsis: Has that always been your opinion? Your public opinion?

Mr. Eric Wohlforth: Yes, sir, I don't see, these bonds are, the only way the State's credit can be involved is if there is a voted debt, voted by the people.

Mr. Rob Kocsis: Are you totally satisfied, as one who had dealt with this agency the AIDA for a long period of time, of the appropriateness of the existence of the agency and the work that it is doing as far as making this kind of financing available?

Mr. Eric Wohlforth: Well, I've been pleased that with the amendments there were enacted by the Legislature with the bill introduced in March and and passed in May that there was a real directed attempt for Alaska corporations to access this means and clear up any ambiguities. So, I think, it is, we felt like we're on the threshold of really proceeding in this area and I have been pleased with the efforts and the interest that has been generated.

Mr. Rob Kocsis: Did you ever express concern about the appropriateness of the agency acting in these areas? A public concern?

Mr. Eric Wohlforth: I think the only time I've ever complained about the Authority is, to my memory, is that they haven't done anything for ten years. Unless I said something I've forgotten or been misquoted.

Mr. Rob Kocsis: Mr. Chairman, I wonder if I might ask Mr. Wohlforth to review a document that I have here which I believe was written by him when he was Commissioner working for the State of Alaska. I realize that is a bad copy Mr. Wohlforth.

Mr. Eric Wohlforth: It is no worse than my memory. This is February 16, 1971. Wow. Lets see, it is a letter from me to Wes Coiner. I was Commissioner of Revenue at the time. Basically (348)\* faithful bond financing is available only if the bonds are tax exempt. Then I talk about the \$5 million, \$1 million exemption project development does provide additional tax base. Do you have a better copy of this?

Mr. Rob Kocsis: May I, this, sir, is a translation of certain sections. I think you can see.

Mr. Eric Wohlforth: Hum, lets see. "Your note of 2/10/71 requesting comment after Mr. Ryan's note." Do you know what I was talking about here?

Mr. Rob Kocsis: I believe, sir, you were addressing the question of the Energy Company of Alaska who was proposing the project at that time.

Mr. Eric Wohlforth: Now, the best that I can recall is that, and I can't really, is that at that point back in 1971 my basic feeling was that it was premature action on the part of the State. I felt that the pipeline was far enough off and indeed it was not till August 1977 and I had some feeling that this action was indeed premature.

Mr. Rob Kocsis: Sir, again, and not to pursue the issue I'm guilty, but would you change your opinion at this point expressed in that document that the credit of the State is indirectly involved in this type of financing? I believe that is your statement.

Mr. Eric Wohlforth: Well, I'll say basically, I'm referring to a certain kind of potential project applicant. Basically such potential project applicant wants the name of the State associated with their financing in order to leverage outside investment sources to feel that other advantages will flow to them if they do purchase the bonds. No. I can justify that today. There are people whom I'm sure would come to the Authority with a noncredit

worthy scheme and seek Authority support. And frankly shuck that support elsewhere, and try and convince people that indeed the AIDA has encouraged them to finance through that means and this indicates that they are more credit worthy then they are.

Mr. Rob Kocsis: Would it be fair to say then that if Wien were able to secure financing under this that the same inference might be drawn?

Mr. Eric Wohlforth: My knowledge of Wien is that they are an established, solid Alaskan firm that has access to the credit markets and doesn't fall under this category that I was eluding to. And I don't think I was specifically eluding to, I don't think I meant to impugn this company, but just generally to speak of people in general whom might seek the blessing of this Authority in order to go somewhere else and say we've been blessed and quite frankly there have been people into the office already who have this same sort of goal.

Mr. Rob Kocsis: Whether or not, sir, they intended to do us that way, that would be a possible inference that could be drawn?

Mr. Eric Wohlforth: Well, I think so in a certain kind of applicant which might weel seek blessing and shocker. You bet, I think there is no question about that.

Mr. Rob Kocsis: Only one further question. On the bottom portion of that translation that was shown you, again you referred that the credit of the State of Alaska is indirectly involved, in your opinion, in this type of financing. Would that still be your opinion, that a bond under the AIDA would indirectly involve the credit of the State of Alaska?

Mr. Eric Wohlforth: Alright, I think that is an indirect involvement as reference to the fact that surely, if a financing were undertaken and it failed, let's say there was a weak applicant, let's say they were a poor group of financial advisors and, if I may use the term "schlock" investment firm, and the whole thing got together and was marketed and it failed, it would be bad publicity for the State of Alaska, you bet. I don't think you can tell at any moment with precision whether that would involve a negative black mark on the State's credit rating, but, would say at least that it would be a negative for the State.

Mr. Rob Kocsis: That, then, would depend upon the relationship between the financial advisor and the bond counsel, and their integrity?

Mr. Eric Wohlforth: And their integrity and the good sense of the Authority. You bet. The Authority has to exercise independent judgment. They have to have decent professional help and deal with projects that are creditworthy.

Mr. Rob Kocsis: I wonder, sir, in that regard. I've taken the liberty of reviewing your financial disclosure form for 1976 and I note there was apparently a relationship between you and the First Southwest Company, who is the financial advisor, I believe. I wonder, I wonder if I might ask, does that relationship still exist?

Mr. Eric Wohlforth: Could I see what you're circulating here?

Mr. Rob Kocsis: I'm sorry. Mr. Chairman?

Mr. Eric Wohlforth: By the way, I've already been (465)\* Inaudible  
This is, I think, at best poor business. I wouldn't have mentioned  
the name of the company here. I don't think it is necessary and I  
see at the bottom that the name is deleted on this chart, from the  
excerpt here, so I have no, I don't want anything I say to be construed  
as a reflection on any company then or now.

Mr. Rob Kocsis: It is not intended in that manner.

Mr. Eric Wohlforth: I don't know what (470)\* legal fee this could refer to.  
I suppose we did some work for First Southwest Company, possibly in  
connection with the, with their qualification to do business in the  
State and (475)\*.

Mr. Rob Kocsis: Excuse me, sir, I'm not trying to pin down what, if any,  
work. I just wondered if there was an existing relationship between you.  
Several voices - Inaudible (478)\*

Mr. Eric Wohlforth: No, no, we have no retainer or anything, no.

Mr. Rob Kocsis: Mr. Chairman, that was my question.

Senator Hohman: Mr. Wohlforth, one of the things that has been charged  
is that the State may be remiss in supplying information concerning  
the activities of the Alaska Industrial Development Authority. I think  
that last month, when friends of mine, who, and constituents, who have  
been, who were striking Wien pilots, requested information, and I went  
to staff and asked that that information, those documents be obtained,  
that there was difficulty in securing them. And, Rob, I would like to  
have you, would you give dimension to that difficulty?

Mr. Rob Kocsis: Yes, sir, I would. We had occasion, prior to Christmas,  
I believe it was around the 23rd of December, to call Mr. Wohlforth  
and Commissioner Hubbard. At that time he indicated that he did know  
about this and was working on the problem, and that he expected to have  
some documents prepared and ready in a short time, and he would call  
us back. We did not hear from him. There was a follow-up call, we  
were assured that the documents were still being prepared and as of  
this stage we have not received them.

Mr. Eric Wohlforth: I have your telephone message on my desk, Mr. Kocsis.  
I'm sorry I didn't call you back. But as I tried to indicate, we  
have nothing but draft documents for this transaction. I think it is  
completely counterproductive for you to get a stack of 182 pages of  
installment sales agreement, indenture, and so on, and then one week  
later for me to run the same thing off on the machine. My understanding  
was that you and the airline pilots wanted the final documents, so that  
you could be assured that this thing was what was going to be acted  
on by the Authority and to date there has been no such documents.  
Attorneys have to have a chance to draft documents and work on them, and  
do their work papers and then by all means the intent was not to confuse  
or to multiply xerography, in that respect. I'm sorry I didn't call you  
to specifically tell you that.

Mr. Rob Kocsis: Mr. Chairman, we were also advised, and this is where my concern came in, because I was the person responsible for collecting it. Commissioner Hubbard advised us that you had the material. We were advised basically, not by you but by your staff, that we should talk to the First Southwest Company. They referred me back to Commissioner Hubbard who referred me back to you. And that, sir, was the chronology and we have it documented in our office and...

Mr. Eric Wohlforth: I apologize, sir. I was extremely busy during that time and I was getting requests from other parties and I suppose the best thing we could have done would have been to put out the minutes of the Authority. Obviously they could have been gotten out to you right away and should have been. The draft installment sales agreement which was given to Mr. Germaine on the 4th was a draft. In fact, it was marked up, I noticed, with suggested interlineated changes and so on. In fact, what I thought you wanted was not yet done. It wasn't an attempt to impede or embarrass.

Senator Hohman: When my office is asked for information, I like to respond. It places me in a difficult position if I don't, especially when the questions or request for information comes from constituents. But I think and in my view we didn't remind you to get a satisfactory response from the State administration, this is a State agency.

Mr. Eric Wohlforth: Yes, sir.

Senator Hohman: We did request, I believe, a document that explains the method of payment to you, the relationship to the State, to the AIDA. You said today that you would have given it. I don't know to whom we made that request, but we made it...

Mr. Rob Kocsis: That was made to your office and that was made, the call, after I talked to you once. I spoke with your office, it was not directly with you.

Mr. Eric Wohlforth: Well, again, I apologize. I can believe with you that message was made, but there was no intent to withhold it. I was unaware that you specifically wanted the agreement as to compensations.

Senator Hohman: Now, there is concern that has been expressed today on the part of the pilots that they may or may not be part of a hearing process on the meeting that involves the final proposal that is presented. When I review the delays that we've experienced in getting information, and then when I review the by-laws of the Alaska Industrial Development Authority. These were provided by?

Mr. Rob Kocsis: Those were provided by Commissioner Hubbard's office.

Senator Hohman: I think you can understand, and I'd like to read part of this. I think you can understand the apprehension, concern that we all might experience. The part I'd like to read to you is Section 2 of Article 3 concerned with meetings. Section 2, regular meetings: Regular meetings of the members of the Authority appointed by AS 44.61.030 (a) shall be held without notice in the months of January, April, July, October in each year, on the day and at the place designated at the last regular meeting, but in the absence of such designation, then at the place and

on the date in any such month as fixed by the Chairman by telegraph or written notice to those members transmitted at least 48 hours prior to the date of such regular meetings. If those members of the Authority are present at a regular meeting, then any and all members may transact business at such a meeting, even though 48 hours notice of the meeting is not provided. If some of those members are absent, a quorum being otherwise present, and a waiver of notice and consent of the absent member is given then any and all business may be transacted at, even though 48 hours notice of the meeting is not provided. I don't see this as a satisfactory quality in a set of by-laws that is a State agency and I would hope that you might convey that to the Commissioner and the Chairman of the board and Chairman of the Authority maybe affecting some modifications that would allow greater public notice and participation. Senator Sumner?

Senator Sumner: Inasmuch as you've indicated that the final documents or drafts are not yet available, where are you in this process from start of the obligation you have to the sale of the bonds? Where are you in regards to time? How long before you think the final documents will be available?

Mr. Eric Wohlforth: Well, I think, I won't say shortly because that is no answer. I don't think that there will be a great deal more time assuming that there is a determination on the size of the issue, and one of the problems has been as you well know, the fact that some of these consents have been withdrawn and reinstated. I think the financing is hopefully reasonably imminent. By that, I would mean action by the Authority, perhaps, within 30 days time. Now, at least within ten days time or on that order, documents will be sufficiently final in form with the legal theories fully developed and fleshed out would be in the hands of the Commissioners and therefor available for public inspection and copying and so on by any interested party, including the airlines' attorney. I think that time-frame, that time-continuum is somewhat speculative but it is the best speculation I can give you right now, and as I say, even though the Senator points out the bylaws are deficient in respect to public notice, we are required to give public notice under the APA as well as give time to the (674)\* and that I'm sure will be done at this meeting when those documents will be available for full inspection.

Senator Sumner: I'll try to get a little closer than that. Presumably they won't be available within a week or ten days and let's try to narrow it down in some way so people know what to expect.

Mr. Eric Wohlforth: Frankly, they might be. I can't entirely commit myself because, my co-counsel is working on them as well, which is Mr. Price of the Hutchison, Price and Ely firm and are jointly working on drafts and I would have to confirm with him. We can put our heads together and we can give you a better answer to that perhaps before the end of the hearing.

Senator Sumner: Ok, Mr. Chairman, we need a tape change.

Senator Hohman: We're ready, if you would identify yourself and your organization.

Mr. Rayford Price: Mr. Chairman, Senator Sumner, I'm Rayford Price. I'm an attorney from Dallas, Texas and I'm a partner in the firm of Hutchison, Price and Ely. Our offices being located at 1313 Fidelity Union Life Building, Dallas, Texas 75201. Our firm...I'd like to introduce myself

and make some disclaimers of the purposes that I'm here and try to explain the purposes that I am here. Our law firm is a recognized bond counsel, we specialize in the issuance of tax-exempt bonds by state and local governmental units. Very much the same sort of practice that Mr. Wohlforth has, which is a fairly specialized and recognized specialized area of the law throughout the country. Our firm is counsel for the Dallas-Fort. Worth regional airport, which is, you're probably aware, is the one of the largest airline facilities in the country. We represent the City of Irving in Texas, which financed the construction of Texas stadium where the Dallas Cowboys play their football games. We are also counsel for the City of Arlington, Texas, who owns and leases to the Texas Rangers baseball team that facility and all of these being industrial-aid type facilities that are financed and leased or within the control of some private business entity which puts it within that area of the Internal Revenue Code to fit within the exemptions of, as contained in the provision of the Code that has been discussed here earlier. Now, I've personally served twelve years in the Texas House of Representatives and was Speaker of the House my last term. I say that for the purpose of saying that I understand the position that you gentlemen are here in today and also to express the very strongly held view that a person, a citizen of Texas should not come to Alaska and try to tell the Alaska legislature, even suggest what the policies of this state should be, and that is not my purpose for being here. My purpose for being here is to express to you in response to some of the, well, first of all to explain the role that our firm is playing in this and the overall way that, of necessity, such transactions as were scheduled here take place. I'd like to do that first and then direct my comments to some of the whereas clauses within the Resolution and will not express at all any views, nor do I have any views, whether or not the State of Alaska should or should not provide the kind of financing we have here to a company that is involved in a labor dispute, and so I do want to clearly disclaim any interest or any qualifications to express such a view.

Generally, bond counsel is involved with three basic questions that he has to deal with. First of all, what is the local government authority for doing the financing in the first place? That is a determination, in this case, of what your Act provides or what authority is given to the Authority to issue these bonds. Secondly, is a determination of whether the bonds qualify as tax-exempt securities under the Internal Revenue Code. And then finally, and, which is becoming more involved in any bond issue is securities questions as to full disclosure of all materials and relevant facts in relation to the issue that is being offered to the purchaser. Our role in this, we have been designated by the financial advisor, First Southwest and Company, as the counsel for the purchasers of the bonds, whoever they may be. And this is becoming a common practice within the business because of the security questions and are leading primarily out of the New York situation in relation to some default on bonds and not giving to the purchasers all the material facts as to the financial conditions of the issuers. The, so, that is the role that we have played and will play in the issuance of these bonds when and if they're ever issued. In that role, we have to, of course, review and make a legal determination of what authority the issuer has to issue the bonds. We, of course, looked at your State statute very closely and have determined that, in our opinion, that the Alaska Industrial Development Authority has the authority to issue bonds for industrial purposes within the designated areas and also in other areas that...well, designated areas being those

specific types of facilities such as airports, amusement, I mean coloseums and these type of things, but, then also general manufacturing and industrial facilities. They also have the authority to issue bonds for the acquisition and construction of those facilities. But then, of course, under the Internal Revenue Code there is some limitations on those as to amount that can be issued. This being airport facilities, and it is in two parts, as it has been proposed and I think as it will finally be started, and it will be an acquisition by the Authority of existing facilities. It will be then bonds to be used for constructing new and improving those facilities for the future use of Wien Air Alaska. Both of those purposes, in our opinion, are specifically provided for in the Act, in Section 44.61.080 subsections (5) and (7) and so therefore, when we issue our opinion and we will issue an opinion that this does meet the local government statutory authority. The second question is as to tax-exempt status. We feel that the Code does authorize and the interest on these bonds would be excludable because they are the property that is acquired is specifically stated in the statute and they are for the purpose of providing airport facilities and construction of new airport facilities. Now, also, for clarification I think some misunderstanding has arisen because, maybe because of our role in this transaction, is that when you are forming such a transaction entity that it involves and particularly with us in place, we have to be assured that we will insure ourselves or we will not issue an opinion that when these bonds are issued that they meet these criteria that we are responsible for. And as a result, it entails drafting of the documents that have been discussed here, transport of those documents back and forth between the lawyers and suggestions back and forth between them to comply with the responsibilities that each of us has and then also gets involved, of course, the counsel for the company itself because they are ultimately the ones who are totally responsible for the payment of these bonds, thru payments that are required under the agreement that will finally be structured. So I think, with Mr. Wohlforth, I heard the testimony here and he is absolutely telling the truth. That there have never been, at this point in time, a final draft of this transaction, for several reasons and one of the reasons being is that the issue itself has changed because of the underlying agreements from the local government units that have been involved and also some requirement on our part, representing the purchasers, that this be absolutely structured in such a manner that tax-exempt status is available when the bonds are purchased by these people. And also, of course, we have had contact, our office and my law partner, Ray Hutchinson, has had contact, I don't know whether it is Mr. Hanahan, Lenahan, or some other counsel for the airline pilots in which he wanted to give to our firm in our capacity certain information in relation to this, which we certainly do want and would like to consider before we issue our opinion and before we approve the disclosures of information to the purchaser of the bonds, making sure that all the material facts are stated. So, we would like to request, on behalf of our firm, at this hearing that we get that. Until we do, I don't know that we can meet, maybe some of the questions and have an agreement between the lawyers as to what the final draft would be. So that, of course, is not you'all's responsibility but we are ready for that type of information and would request that we get it very soon. And I would hope that these documents, the final documents, can be prepared within and ready for information recorded before the Authority, and, of course, then for public use by this Committee or by

those interested. Hopefully, within two weeks. But if you are all familiar with the practice of law, I hope you don't hold lawyers to come to a final resolution between themselves as to the provision during that period of time. Mr. Chairman, I'm here hopefully to provide you with, well, I am here to provide you with whatever information I have and I hope it will be of help to you in concluding whether or not the Legislature, or what action this Committee should take in relation to this transaction. Now, I would like to show, before I submit myself to questions, address two provisions specifically that were set out in the Resolution under consideration. On page 2, I believe both of them have been discussed here before, and the whereas beginning on line 11 and the whereas beginning on line 14, let me explain that, first of all, in relation to the first whereas, it states that "whereas it appears that Wien Air Alaska, Inc. intends to use the proceeds from the proposed bond issue for purposes other than those authorized by the statute." Well, let me say that it is my interpretation of the statute that Wien Alaska, Wien Air Alaska, their use of the proceeds, that I think this is referring to, will become corporate funds that will be used for corporate purposes. Because the bonds will be sold by the Authority to the banks and to the purchasers of the bonds who then will use those funds for purposes related, provided for in the Act is, that those funds will then be used for the acquisition of the existing facilities from Wien, the purchase of those facilities from Wien, which then will become the property of the Authority or the State of Alaska. And then, with what Wien then, and I'm talking about purely in the legal sense, I'm not talking about practically or whether or not it gets involved with the strike, with the cash flow position of Wien, that is not of my concern. Then, when that transaction takes place, then the Act does not come into play as to what Wien might do with their corporate funds at that point. The other portion of the bonds will have to be used for the specific purpose of constructing the facilities that are planned to be constructed. But I think it is a mistake. That provision is not technically or legally correct in relation to this transaction as far as the Authority is concerned. Next, the second provision as to the being a debt or the subject of who would be required to repay the debt service on the bond issue involved, speaking in relation to the Authority, that the total security on the bonds, both under the Act and the way the documents will finally come to be drafted, will be, there will be no source of revenue at all pledged for the payment of these bonds except the required payments that Wien will have to make to the trustee under the trust indenture, who will then pay the bond holder of the bonds. There is no authority specifically prohibited in the Act that any bonds of the State of Alaska go for this purpose and the documents of course will read, and I'll make very sure that they will read, that they will specifically state that there will be no other source of funds that will be used or can be used for the payment of these bonds, except the payments that will be pledged and that Wien will be agreeing to pay for these facilities, for the use of these facilities. So, those two questions in relation to the Resolution will be the only comment I have, and I will be glad to try to answer any questions the Committee and staff might have at this time.

Senator Hohman: Are there any questions for Mr. Price?

Senator Sumner: Mr. Chairman, I'd like to expand a bit on the interface that existed between the counsel for the pilots and your firm. You say that the counsel contacted your partner?

Mr. Ray Price: Yes, Ray Hutchison, who is my law partner, was contacted and quite frankly, I don't recall if it was Mr. Lenahan or not, but it was an attorney for...

Senator Sumner: But the purpose of that was for what?

Mr. Ray Price: For the purpose, he had seen on the draft of the pilots replacement memorandum in relation to this that we were counsel for the purchasers, and as a result, and I think rightfully so, that they may have information that would be of concern to us in that capacity and wanted to furnish it to us. We, of course, want it to be furnished to us, because we have the responsibility of seeing that all the material facts are revealed to the purchasers. So we requested that that be furnished, and as of this date we have not received it, any such information. Unless it is in the office since I came up.

Mr. Rob Kocsis: Would it be fair to say then, that you could not issue a final opinion or give a final opinion until you saw that information?

Mr. Ray Price: Well, we would have to make, we have to make an independent judgment of whether the information, if we are aware of and we can rely on, of course, the reliable sources for that information, that that information is available to us to be satisfied that all material, and this is dealing with the disclosure to the purchasers, what the financial condition of the overall transaction amounts to, so that they will be able to make a judgment on the purchase of these bonds. It gets into a security question in what it is related to. But as far as a determination of the legal questions, I think that we are on top of those and are not aware of any or if there is we would like to look at any legal argument that the Authority does not have the authority to issue the bonds. But that, we don't, we think that they do that.

Senator Sumner: Do you consider yourself, or are you charged with the responsibility by the bond purchasers of evaluating the financial condition of the source of funds that go to pay this?

Mr. Ray Price: No, we don't have a responsibility to evaluate it. We have the responsibility to assure that the information is made available by which the purchaser can evaluate it. We don't hold ourselves out as financial advisors. (Inaudible)

Mr. Rob Kocsis: Mr. Price, one final question. May I ask you who requested that you appear today and give testimony?

Mr. Ray Price: Mr. Wohlforth did and First Southwest Company requested it.

Mr. Rob Kocsis: Do you anticipate that First Southwest will be your client if this eventually goes through, or is that an improper question? I'm just wondering. Is that why you're here?

Mr. Ray Price: Do you mean clients in relation to this transaction?

Mr. Rob Kocsis: Yes.

Mr. Ray Price: No. We were never...we are, we will be compensated out of the bond issue itself, when and if the funds are ever available. But we are, our legal responsibility is representing a client that is not

necessarily known at the present time, to make sure that certain things are in line with the three areas that I related to you earlier. And I might add on that, and I can't help but express this because there has been communications in relation to Mr. Wohlforth, in his responsibility as bond counsel, because he will be paid out of the fees. Well, the truth of the matter is that no bond counsel in the United States can afford for any fee or any one transaction to override his reputation and his opinion that he has built up within the industry. To put that on the line for any fee on any one transaction that were to come along even if he were inclined to do so. So, both he and I are, of course, and our firms are dealing only with our expertise and our acceptance within the financial community of the whole country, in our opinion, when we express it. So, any such implication to that, well, I do feel it as a, as my profession, that I should comment on it, because it is a totally invalid accusation to, I think, any accepted and reputable bond counsel in the country.

Senator Hohman: Mr. Price, you say it is your responsibility to write the language on the bonds so that the State is removed from any liability for debt service should they default?

Mr. Ray Price: Yes, because that is the legislative directive within the Act, that the State will not be in...even if it weren't written in there that would be the consequence of it. But it also has to be specifically put in there so that the purchasers of the bonds know absolutely that they could never go to the State of Texas...I mean, of Alaska, I'm sorry...or any political subdivision of the state.

Senator Hohman: Are there any further questions? Thank you sir.

Senator Hohman: Mr. Jim Kurley?

Mr. Kurley: Mr. Chairman, Senator Summer, I'm James H. Kurley, Jr., Senior Vice President of First Southwest Company of Dallas. Among our branch offices we have an office in Anchorage. I have had the pleasure to participate in this attempt, starting in 1974, to put this state in the industrial development bond business, which I certainly want to state that I firmly believe it needs. I know of no state that needs this vehicle of financing any greater than Alaska. We've been very successful, probably the most successful effort in the nation in the case of the City of Valdez. We have been engaged, our firm, by the Alaska Power Authority, who will be the people that will be working with the state to try to build the Susitna project. We are also the financial advisor to the AIDA. Now, most of what I would have like to have said has been covered and in trying to hold myself to the contents of the resolution and knowing that the day is late, I'll try to do just that. But I would to just simply, if I could, reinforce a couple of things that have already been said. The people you've heard here, from the AIDA, are hired consultants, admittedly, so I might just take a moment to tell you what my role is and what I have promised to do in a very lengthy and detailed contract to cover any of the circumstances that may arise in working for the AIDA. I've never been asked for that contract; it's a public document and it is four or five pages. It's available to anyone that would like to ask for it.

My job is sort of a straw-boss of a team of people, as it's not my direction that has created such a team. This has come out of the disclosure requirements necessary to market bonds, because of the New York City problem, pure and simple. What is about to happen in the municipal industry, and the municipal industry is now about to be regulated by federal law, is that we are going to have to comply awfully close to the procedures that are used in corporate finance, which are very stringent and are set out by law. At the moment, the procedures for the municipal end of the business are not set out by law because of something called the Tower amendment to the 1975 Act that starts putting municipals under regulation. The regulations were put on the people that sell the bonds and not on the issuer, in this case being the state. Now this, I've always said, is a mistake. I got quoted in the Bond Buyer the other day saying it's a mistake--I'll say it anyway. The Tower amendment says that the issuer of the bonds can't be made to do anything. The same Act goes on and says that the rulemaking board is set up that will police the people that sell the bonds. The people that sell the bonds say, "we will not sell your bonds, or handle them, unless we have the different elements that are generally required under corporate financing." One of those is counsel for the underwriters, and so forth. So, I just wanted you to get a little feel of what we're talking about here. We're talking about a team that, in many cases by necessity must include additional people to what you've seen here--bond lawyer, special counsel and financial advisor. If we were talking about an advance refunding, we would have to have a special counsel, that specialized in that one set of regulations. In addition, we might have to have engineering help--all of these things are set out in my contract, when I think they're necessary to protect the state. It's my duty to tell the Authority and recommend that they bring in these people as needed. In this case, because of what we were talking about here I felt we needed the counsel for the purchaser, that's the only one I felt we needed, so that we'd have two independent opinions on this package that we're talking about.

The same identical thing is happening on all of the other applicants the Authority has, Ketchikan Pulp, just to illustrate it, they have an underwriter, in that case it's Black and Company. Black says, "we'd like to have a company called 456\* Rock as counsel for themselves." We said they're fine, their reputation is good. So you've got the same team in place and you'll have a different set of faces in many cases, on each issue that the state comes up against under this program. Now, I think this program is a very vital one. I can't think of anything more disastrous than to have a prolonged and unsatisfactory debut of this Authority into the field in which the legislature created it. And that is my biggest fear here.

So I'd like to urge everyone present to not let this situation that we see here prevent this state from getting into this very worthy undertaking, in my opinion. The biggest advantage, and the reason that industrial development bonds are allowed, is to allow longer-term financing for long term improvements for the different activities that are blessed by Congress as being eligible. It's difficult, for example, for an airline to get long-term financing on a piece of property on leased land. This is true everywhere, it's impossible in Texas, just literally. So the advantage is here, to allow long-term, or longer-term tax-exempt financing for these items and Eric Wohlforth state this is done in more than forty states, believe me.

Now, just to give you some idea of the types of things that I've handled, I personally handled around forty issues of the type we're talking about here, as financial advisor, and my company does this for over 500 clients. These two clients in Alaska are two out of over 500. The Dallas-Ft. Worth airport, for example, this identical type of financing was done by the U.S. government, the Postal Service. The postal facility on that airport is tax-exempt bonds just like we're talking about. Braniff Airlines there is, just this week we've just done a second \$31 million issue for Braniff, for their headquarters building, office building, that is allowed under this financing. We've done it and the terminal's maintenance base, cargo facilities, flight and hostess academy for Braniff with this financing. American Airlines, their maintenance hangars, flight meal kitchen, their hostess school and their flight academy. Denver, Colorado, has a flight academy for United Airlines and it goes on and on....This is very common type of financing and Alaska, and I've said this for some years and I've been working to try to bring about and help to urge that this Act be amended in order to build these things. I think you have a great opportunity here to help your industry and I urge you to preserve that. I believe most of the points in the resolution have been covered, so perhaps I should just present myself for any questions that you might have.

Senator Hohman: Did you have questions, Senator Summer?

Senator Summer: Mr. Kurley, I'd like to call on this one outstanding question, at least in my mind, in regards to the Wien's financial capability. By process of elimination we sort of got down to you to ask this question. Is it your area of responsibility to make sure that, in this case, Wien is able and capable of generating the money it takes to pay back the, to make the payments on the bonds?

Mr. Kurley: Yes, Senator, that is my primary responsibility and it's so written in my contract with the AIDA. I am to review all aspects of each of these applicants and to recommend or recommend disapproval of each of these applications. There's absolutely no question about the ability of this bond issue to be marketed. Now, any time you make these 544\* (convenants?) you've got to qualify it with the state of the condition of the bond market. Now since we have been held up on these withdrawals of approvals and so forth, the bond market has increased at least one half of one per cent, there's been that damage, that's an estimate, that's been done so far in this particular case. I don't know what the bond market will do, it's not as good as it's been. There could be more deterioration there. So, subject to the general market, yes, there's no question.

Senator Sumner: What did that one half of one per cent amount to, approximately? In absolute dollars over the period, assuming the nineteen million.....

Mr. Kurley: Could be millions of dollars, don't, you can't know that figure precisely for any one of the maturing amounts of bonds.

Senator Sumner: But it would add up to some millions of dollars?

Mr. Kurley: A substantial amount of money, as far as I can tell.

Senator Sumner: In your opinion, are you familiar with the current financial condition of Wien?

Mr. Kurley: Yes, I am. But I think Mr. Peterson could talk to that more up to the moment than I can. With regard to disclosure, representing a company that did this job for our company represented as financial advisory over 5% of the total bonds issued in the United States last year. We have got to look to this disclosure problem, we think we know what we are doing there. Every item that we believe, as financial advisors, should be disclosed will be disclosed. If we have overlooked any items it's the job of the counsel for the purchaser to tell us we have and to insist they be included. They will all be there.

Senator Sumner: But what I was pursuing, you had indicated that this was your primary area of responsibility and in talking with Mr. Mercer earlier, he indicated that it was his view, on the basis of documents or information he's seen, that Wien Alaska was in potentially critical or severe financial condition.

Mr. Kurley: I do not agree with that, that's 588\*. I would like to say this, too. This particular financing was not first raised as a possibility late in 1977. When the group that talked to the people up here, that we knew, to see if there was enough interest for the legislature to be approached to amend this Act, to my best knowledge, when that happened was something like the preceeding December. Well, there's a lot of knowledge that there was probably going to be an amendment put into this Act, you don't just put them in overnight and draft it, and there was a lot of interest, Wien was among those. My testimony would have to be that this particular interest of Wien's came two or three months in advance of this bill ever getting introduced and I know that they had trouble getting it introduced, it was delayed, it was late.

Mr. Kocsis: Just one question. When you evaluate whether or not the company is in a responsible financial position, at what point does that evaluation take place in this whole procedure?

Mr. Kurley: It takes place throughout the initial observation of the company. Some of the applicants that have come into this Authority are so weak that we've simply written letters immediately, if you simply write a memo or tell the Authority members that this one, or you first, you try to tell the applicant that there's just no hope, in our opinion, of you marketing this or getting someone to market this issue of bonds. But we always urge them to go to somebody else--go to the underwriter or the bank and confirm our judgment. We're rarely wrong on this. Wien Airlines has a strong balance sheet. We've even done an analysis of that. Within the last few weeks, we've ranked the current 612\* (municipal?) balance sheet of Wien against Braniff, American, Delta, and so forth, in the country. We think we do a professional job, this is not the issue here.

Mr. Kocsis: Are you telling me that currently you are of the opinion that they are strong?

Mr. Kurley: We'll have to do that up until the very moment of the issuance. When one of these bond issues gets delayed, roughly, one quarter, we would insist, and the counsel for the underwriters would insist, that we take a look--it's a moving thing. When you have a delay you have to do what you call "stub in" unaudited figures, up to three months.

Mr. Kocsis: One final question. In your opinion, I think one of the ways of defining whether there's a reasonable creditworthiness is whether or not it could be placed privately, as a private issue. In your opinion, could this be placed as a private issue?

Mr. Kurley: Absolutely.

Senator Hohman: Mr. Kurley, going back to Senator Sumner's question about the effect of the half of one per cent on the cost of the bond over, what is it, twenty-five year bond?

Mr. Kurley: You realize this issue, well, we've been suggesting that this issue will have to be completely restructured now.

Senator Hohman: This question was, at \$19 million, what would that be.....

Mr. Kurley: Well, per each million, you see, when we talk about interest rates, we, one half of one per cent is five dollars per thousand dollars of bonds. So that's \$5000 per year per million.

Senator Sumner: That's \$5000.....

Mr. Kurley: For ten, we're talking about, what we're talking about, is \$50,000 a year, roughly, right here, over 25 years. Interest rates, as you work with them, are extremely important, a delay in these markets does serious damage.

Senator Sumner: Let me just follow this a minute....five dollars per....

Mr. Kurley: One per cent would be ten dollars per thousand per year, so you've got half of that here, five dollars worth. You have a million dollar issue, you have five thousand per year, you've got a ten million dollar issue, you have fifty thousand a year over the.....

Senator Sumner: And on nineteen million you'd have a hundred thousand per year.

Senator Hohman: Ninety-five thousand.

Senator Sumner: Oh, yes.

Mr. Kurley: Now to be technically and absolutely accurate you've got to run the bond years, that's the number of bonds you were planning on retiring each year times the number of years, accumulate those figures, multiply them by the differential and you get a precise figure.

Senator Sumner: But it's a significant amount of money.

Mr. Kurley: Yes, terribly significant.

Senator Hohman: The ball park answer would be then, about a hundred thousand times twenty-five years? That's correct? Any further questions?

Unidentified voice: Mr. Chairman, we have to change the tape machine.

Senator Hohman: We'll have a tape change, then. During the last break, someone asked to whom they would send comments, if they would like to or further information concerning this hearing. And....(tape changed)

Mr. Peterson: Senator Hohman, thank you for the opportunity to appear before your committee. I don't believe that anyone has any doubts about why we're here, but I can't help but wonder why we're in Fairbanks because it would appear that Anchorage and Kodiak, Bethel, Galena and Dillingham and Nome, particularly, felt that they had been had when they rescinded yesterday, but they're not represented, and I was wondering why we couldn't have had the hearing in Kodiak or Dillingham itself.

Senator Hohman: Let me add here, Mr. Peterson, the chairman directed the committee to Fairbanks for its information office here.

Mr. Peterson: First of all, anyone that's interested in the loans or the financing plans---there it is---the whole works. There is no financing at present to do with this. The total financing of the twenty-four million plus the short term agreement we have with the National Bank of Alaska to receive first working capital of three million dollars which could be 24\* or a slack season and so forth, the only short term money we have. We have no, the equipment here that is under discussion, the ground equipment, is not tied up in a mortgage, it's only the aircraft and vehicles, trucks, forklifts and so forth, that's involved in this loan. So we're not refinancing, you can't refinance something that you didn't finance already. The company has discussed cash flow, I run into a bit of a conflict here, I think that Gary Mercer, the, has got his status quos mixed up, with the statement that says, quote "if we can expand to do more business, why we're up on the status quo." Well, I think the status quo is out of federal definition because it works the other way, too. I would say that the status quo should work in

both directions. He's apparently a little confused on the issue of the status quo. From the labor standpoint, status quo has only to do with the contracts between the partners, and that's the company and the union, but I think that the status quo thing is a little bit out.

I'm deeply concerned over the position of neutrality. For the life of me, I can't see how a company which is engaged in normal business practice that is continually working on keeping its corporate affairs in shape and getting and taking care of its loans, which is a continual business, and one we've been working on for years, on this airport thing, airport facilities, how that can possibly be a, that bit of financing, can possibly be, where the state is involved, possibly involve neutrality. The state stops being neutral when it gets into that, because that has nothing to do with the labor situation, so these people, the union have stepped in here, trying to bring these communities into this thing, and bring the state into it, they have violated the neutrality under the statute, as I read it. Now, I'm not a lawyer, but I've spent a fortune on lawyers, and I'm spending a lot right now, because ALPA has got some pretty sharp gunslingers coming up here from Washington, D.C., and you know it. In fact, of course, we've hired one of our own and I'd like to see those two fellas argue, because they should be the ones to argue. I am handicapped in what I say here. There's 26.5 million in lawsuits involved. The union has brought a suit against this company for unfair bargaining practices. We don't think they have a case, but we've got a countersuit of 16.5 million which involves not only the salient issues, but also the various antitrust violations which we think the union has gotten involved in. The price just went up, because by hassling around on this bond thing, they have run up our half per cent interest and that's going to be added to their bill. I can assure you that we will work very, very diligently on that. As I say, you don't talk too much when you've got a labor situation. You've got to recognize something about labor laws. You're not involved, but I'm getting to be a real expert on this thing. We find that the labor unions can tell its membership anything, but the company can't tell them anything. As a result, they're getting all one side of this thing and frankly, what's happened to the Wien pilots and this company is that some bad boy has, figuratively speaking, tied a couple of tomcat's tails together and hung them over a clothesline. And I think it's a disgrace, frankly, because there's a lot of nice people getting hurt and sitting out there. I'm getting madder than the devil about it but I don't know what to do about it, but we're working on it and we're going to do our very best. I read an ad in the paper that appeared, I guess it was printed just so we could be sure and have it for this meeting, about how why don't we arbitrate? The union tires of waiting nine months to arbitrate. They turned down arbitration when they, when the, when we were in 99\* mediation.

Senator Hohman: I wonder if we might restrain, Mr. Peterson, from the.....

Mr. Peterson: I don't think so, but you're the Chairman, we've got to restrain all over the place...but I'm referring to this neutrality thing, on page 2, it states on 6 through 10, and I'm very, very concerned with that, because I think that the state could involve itself in precedents here that it would wish that it had never got into, and I am a heavy taxpayer in this state. Gentlemen, my company has got sixty million dollars invested out there. We hired, until these folks changed things, we hired over 1000 people. They cost 150 Teamster jobs. The longer this...I'm very, very concerned in this. But I say the state will violate neutrality if they listen to these people

and give in to them. And I say that as the biggest taxpayer in this room-- my company. I'm not going bad myself, but these gentlemen aren't paying taxes, they're getting 100% of their wages, their guarantee, the pilots are, and they think that they're not going to have to pay taxes on it...they should, but apparently that's with these strike benefits, I don't know the name for it, but...They're talking about costing the state money. This fracas and this horsing around, these gentlemen have done. It's not these gentlemen, it's the godfather, the head of that union back in Washington has done, has already cost the state, if this bonds issue goes through, \$90,000, because we're only going to have probably \$10 or \$11 million, maybe about \$80,000. It's already cost the state that, because they get one per cent out of this. They've got \$191,000 out of this program. I don't think that this union is so important that it should deny the state \$190,000, and deny those communities who aren't going to be in this because of these machinations, having their facilities improved. This company has Gary Mercer, who's propaganda minister for this fine organization, has made quite an issue about cash flow, and I've heard a great deal of testimony here that, number one, the bonding authority is only to help people in distress and they apparently claim, the pilots proclaim, that we're in distress. Now I find that maybe we can't qualify because we're in distress, and I'm having a few problems with that, and the logic of it, but as far as cash flow, they're afraid that this is going to help the cash flow. There's \$30 million worth of equipment, and I'll clarify the record, the experts here have been telling me all about it, but I don't know much about it, I just make deals with Boeing, I'll tell you that we've laid down \$75,000, \$25,000 per airplane to maintain a delivery position. And I'll tell you those airplanes cost between \$9.5 and \$10.5 million dollars apiece. The average is going to be something like a little over \$31 million and we've got to pay, by March 16 we've got to pay another 5% or so. And before the, before March 30, 1979, we've got to shell out 30 per cent of that. So I don't think the union has to worry about our cash flow being used to hurt the poor guys, I really don't. I really don't see that.

I heard some mention here that Wien has short term debt and 10.4 million, and the 10.4 million 170\* that 19.1 million and that was going to be used to pay off the short term debt. I advise you again that this property that we're talking about is not mortgaged. Now, let's get down to the basic problem here, in their line, that Alaska has, what this Act has done. Normally throughout the United States, in many cases, terminals are built, there's one built in Anchorage, one in Fairbanks, and the city owns one in Juneau, and those terminals are financed not only with tax free bonds, they're also built with grant monies. Now we can't get any grant monies for our terminals, and we get out in these bush areas like all these points mentioned here that're involved, we have no grant monies and here we are on state-leased property that the lease states that the properties and assets are supposed to go with, as I understand it, the end of the ground lease, supposed to be the state's. If that has changed or not I don't know, it just doesn't. So, what we think, we have to go out here on single purpose facilities which are damn near impossible to finance without something like this Authority, and so here we are in the position of no one wants to touch us. Who ever heard of Wien? Insurance companies won't touch us--we've gone to insurance companies in the past three or four years--we've had to build--you know what the terminal up in Bethel was, George. That one we've got over there is a lot better than the one we're struggling with, isn't it? You should be

proud of us, you should be helping us with it. That goes for Dillingham, that goes for St. Mary's, Aniak. We're scuttled by this thing. We have improved the facilities in Nome and Kotzebue. We just finished a Taj Mahal up in Barrow that everyone should be proud of. I would think that Mayor Hobsen should be sitting in here just beating our drums for us for building that terminal like that. And we did all this, the one at Deadhorse. We did all this in the past three or four years, and we had to do it out of petty cash. You talk about cash flow, gentlemen, this airline has performed miracles to do this and double its fleet. We've doubled our fleet since 1974 and that would be equivalent, gentlemen, of United Airlines putting into service, training the crews, of which these are some of them, of three hundred jets, three hundred airplanes. And we did it with our fleet. Now that was quite a deal. You people should be proud of this airline, I think we're good citizens. So, I'm just a little bit upset with some of these things that I see going on here. I'm particularly upset about permitting this Washington, D.C. based labor leader, with an international problem on his hands, who has suckered these poor guys into this situation and has threatened to break the company in the process and is breaking the pilots. I'm just absolutely amazed that an 230\* has to have his day in court.

Now, Gary Mercer mentioned about, that he knows all about our loan agreement in here, apparently he knows about it all. He's a real expert and I think I should hire him to handle, be V.P. for finance. Part of the agreement in that loan is that we would dispose of these surplus airplanes that we did not need when the pipeline was completed and certain things, it was written in the loan agreement. And that applies to the loan that you're talking about. He also mentioned, of course, that is when you make excess profits shares 25% of the profits over a certain amount goes to pay off the loan.

243\* apparently this is the first one he ever saw and I don't think he probably understood it very well when he read it. I'll just wind up by saying that financing single purpose facilities on state-leased land, from the state of Alaska is not easy. Now, I wouldn't be a bit surprised, I think that Mr. Kurley has stated it could be done, sure, it would probably take about 12% interest. You know who pays that 12%? You do, George, when you ride in our airline over to Bethel, because it shows up in the rates. When we carry excess crew, it shows up in the rates. Under the liabilities thing a prudent businessman does his best to keep his costs down. The reason he keeps his costs down is to try to generate business, not drive it away, not drive it out of the market. So we do these things that are necessary to accomplish this. I'll lay myself open, bring up the big guns here, I'm ready for this 266\*, but I feel like I've been dragged into something that opposes these people.

Senator Hohman: Any questions of Mr. Peterson?

Senator Sumner: Maybe a statement and, with your permission, Mr. Chairman. Mr. Peterson, sometimes when legislation is introduced, its merits or lack of merits can't be determined until there are some public hearings, and I'm not preempting the Chairman to stop me at any moment, but for anyone who is here who wants to testify as it relates to this item here, if they feel they have some information to support and you largely have talked around the subject of neutrality. I just have two series of things I would like to pursue.

One is the financial impact of the strike on Wien's cash flow. Has there been a negative impact on that side, on the cash flow by the strike?

Mr. Peterson: Yeah, the problem came in the early days of the strike, when we had to, when someone had to be responsible for providing the service because there was no other way it could be done. So we had to charter airplanes. The union tried to hold the state in its seige by stopping Alaska Airlines from operating into those points, so it would serve the public or capitulate to what we considered an unreasonable demand. So we did, we took care of them. We spent two or three million dollars, and of course we had to train new crews as we went along, because all of the pilots didn't stay and fly for us, in fact very few did. So, to get back into service, we had crew training costs and we also had, while our airplanes were sitting, the cost of chartering airplanes, and this ran into a couple of million dollars. So, where we would have normally made money in June and July, we didn't make any money until August, now we're in the slack season--sure, you bet it hurt.

Senator Sumner: O.K., would your position on financial impact, be changed if the strike was settled? I'm trying to determine if the ongoing financial arrangements or capabilities of Wien is affected by the ongoing strike. I don't know if you're more efficient now, less efficient....

Mr. Peterson: No, not now because then the damage has been done. The problem that we're facing here now is that any settlement will probably cost us more money, it will probably make the situation worse. If you analyze it, and of course this is one of the problems we have here, in resolving this issue, because the damage was done early. We're providing the schedules now, we had always contracted most of our bush operations, with the exception of the Bethel area, and of course when that one closed down we did have a subcontract with a carrier there, and so he just took over, so that is, that already cost money. But actually, the damage is done, operating our own airplanes or subcontracting probably wouldn't make a lot of difference, in fact, the purpose of subcontracting is to save money.

Senator Sumner: Do you in fact save money by subcontracting over operating them under your own tow?

Mr. Peterson: Usually when we go to the board and work into a subcontract we have to demonstrate to the Civil Aeronautics Board that there will be a savings. In the case of Kotzebue we showed quite a substantial saving. What has happened in Bethel I don't know, because that wasn't done on an orderly basis. We were struck, we had to do something, the public had to be served, so that was the....

Senator Sumner: Was there an ongoing effort? How long, I think we determined there was an ongoing effort prior to the strike to get a loan. In your recollection, how long prior to the strike had you been negotiating efforts to get a loan of this type with this Authority?

Mr. Peterson: Well, we discussed this possibility in late 1976, and I think Mr. Kurley stated around December and that could be about right. We decided at that time that if that Act could be modified, you want to remember that our contract was not open to the pilots until January 1st, that if that Act could be changed to conform with the acts or like acts of forty other states,

something like Braniff and Delta and American Airlines, with this type of financing that it would be a big help to the company. So we had started this discussion then, but, prior to that, part of this loan here, the banks, particularly Morgan Guarantee, who was involved said, you've got to get some long-term money on your ground facilities, and I said well can you help us with the insurance companies. Well, no, he said, it's single purpose on state-leased lands, so we're locked in. It was logical that this avenue could be used to actually eliminate an inequity.

Senator Sumner: Assuming the strike had not occurred, and given the efforts that you had going to get this loan, do you think the loan would have progressed....

Mr. Peterson: You mean on this deal we're working right here, that's in question?

Senator Sumner: Yes. In your opinion, do you think the loan would have progressed?

Mr. Peterson: I think we would have had this closed up in December. (Inaudible aside with others) Before the year ended, we probably couldn't have had it done much faster. Since that time, we started out with 6.75%, and the bond market's gone to the dogs with all this fooling around here, and it has to cost us another half per cent.

Senator Sumner: O.K. Another area that I wanted to quiz you on for just a minute, you indicated that the only thing I have to show, that makes up the \$19.1 million, I'm talking now about the original \$19.1 million, the only thing that I have that shows that is reflected in the installment sales agreement and I understand there's some problems with that at the moment, but, nevertheless listed in there, totaling \$10.4 million, is the description of existing terminal buildings and facilities.

Mr. Peterson: Right, right. This stuff has been built through the years, but most of it recently.

Senator Sumner: Now is this the items you're talking about that's free and clear, or are there mortgages on this?

Mr. Peterson: No mortgages on anything. The only thing that's mortgaged in this company is the flight equipment and our trucks and vehicles and forklifts and so forth.

Senator Sumner: So you're saying, essentially, that rather than refinancing this is in essence a sale through the bond...

Mr. Peterson: That's right, for which we're fully financially responsible and I think you'll find that written in the indenture agreement.

Senator Sumner: Well, I apologize, I don't have....it's a bit difficult to get a full grasp on this thing from either side. Mr. Chairman, that's all I have.

Senator Hohman: Mr. Kocsis, did you have questions?

Mr. Rob Kocsis: Just one. In your suit that you mentioned here, your countersuit, in fact, are you asking for damages for loss of revenue. Do you know the answer?

Mr. Peterson: Against the suit?

Mr. Kocsis: In your counterclaim, did you ask for loss of revenues?

Mr. Peterson: Not yet, that is coming next. We'll pursue that very diligently, I can assure you gentlemen.

Senator Hohman: I think that is all, Mr. Peterson, unless you have something else. Thank you sir. Mr. Karrella?

Mr. Karrella: Thank you, Mr. Chairman, I'm Ambrose Karrella. I'm a North Star Borough Assemblyman. Senators, I want to thank you profoundly for holding this hearing in our town. It is a courtesy we're not used to and we really appreciate it. Mr. Peterson's animosity against Fairbanks should be quite evident to you now, as it is to us. Mr. Kurley's fear of us wanting to endanger the AIDA is groundless. We approve wholeheartedly of it, and in particular the fact that public approval, community approval, is needed. This gives us our chance to speak. I respect Mr. Peterson's anger, because we are angry with Wien. I'm the individual on the Assembly that led the fight for disapproving of the initial resolution that appeared before us, and I'm also the dummy that changed my mind and talked everybody else into changing around and approving it. We all approved it with reservations, but we did approve it because in meeting with the Wien people that came up, most of them from Anchorage, some of our local people, in fact one of the local people who influenced me the most in changing my mind about approving the resolution, we came to the conclusion that we might be cutting off our nose to spite our face. And then is when it hit the fan and we were inundated. I personally, I got more phone calls on this subject than even planning and zoning or any of the main issues that Fairbanks has been struggling with for a long time, and the input was so overwhelmingly that we "hell no, we don't go" we just didn't want to support Wien because of what we see as a total lack of support from Wien. This community does not want to support Wien at this time until we feel that we get some support back. My challenge to Wien was not primarily a concern for the pilots' strike, but since they are constituents of mine they were part of the involvement. The input I received mainly stressed the decreasing service Fairbanks and other outlying communities, our neighbors, were suffering from Wien, ever-increasingly since the merger with, between Wien and Northern Consolidated. Wien has consistently ignored Fairbanks, and our neighbors by trying to become, in our opinion, another Pan American or another Alaska Airlines. Years ago, I was here when Alaska Airlines lost their authority, through CAB intervention. We still, I believe at that time, had Northern Consolidated and Wien. We still had competition from bush service and then the merger of them left the total responsibility, in our eyes, on Wien, to see that we had good bush service. We had a fine terminal here, we really did not fear that we would be losing a great deal because Wien did not pick up all of the routes that were sacrificed or were removed from Alaska Airlines. This was an extremely thriving community to move freight in and out and people, passengers from the bush. Since then, Wien has developed the habit of overflying Fairbanks and we can't get, we have a terrible time getting, merchandise on Wien aircraft going to places that only Wien will serve unless we use charters, because when they come into Fairbanks from other locations, there is no room. Our freight is known to lay here, sometimes

weeks, at the terminal, waiting to board an aircraft. I know you've heard testimony, or you will hear from others that the aircraft that do go into the bush, flown by their subcontractors, are not capable of carrying the goods that people are used to getting. And, of course, we can't send them from here because they get stocked. I mean, where an otter, a twin-otter used to be able to carry almost anything that they wanted, well, they can't get it on the type of aircraft that they have. Some merchants actually blame Wien for having to open up branch offices in other communities just so that they can get merchandise onto the aircraft. Now, this is the testimony that I have received before I went to battle with Wien. In the light that very little of this money is going to be spent in Fairbanks, perhaps none at all out of this loan, is the basis why this community has strongly urged me to deny support by the Fairbanks North Star Borough for this loan. It is really a case of the chickens coming home to roost. We just, this is an emotional and the witnesses that have been here before have been very factual, I've enjoyed listening to their case point, but why Fairbanks started this snowball that has apparently harmed Wien so great is to get their attention. I believe we've got their attention. And I don't believe this community will support this loan under any conditions until we hear something from the administration of Wien, Mr. Peterson probably in particular, as to just what will be done for Fairbanks. What will be done for our bush neighbors who have before depended on Fairbanks and who we were allowed to serve which now we've lost almost all of their business because we have been cut-off at the water line. That is all that I have prepared to say.

Senator Hohman: We probably should have stopped you. I don't think that that relates at all to the Resolution.

Mr. Karrella: It does, I believe, because our community was asked for input and this is why we've contested this Resolution.

Senator Hohman: Are there questions of Mr. Karrella? Thank you, sir. I think then, that we're down to our final witness, which would be Mr. Bob Aaron.

Mr. Aaron: Senator Hohman, I can't tell you what a thrill it is to have a seat in the same chair as two of the biggest taxpayers in the room just sat in. But I think Andy's got it hands down. I'd like to applaud Senate Concurrent Resolution...

Senator Hohman: Excuse me, would you indentify yourself?

Mr. Aaron: Yes, my name is Bob Aaron, resident of the North Star Borough. I'm a working member of the Teamster Union, I'm not representing the union. I'm here as a citizen, and I'd like to applaud SCR 73, on the basis of its withholding action on this and requesting a stop action on this because of the question of neutrality. I think as long as the members of ALPA are not getting unemployment, or any subsidy from the State while the strike is happening, there is no reason, that's \$90 dollars a week, there is no reason for Wien to increase its holdings by one third, I think he said \$60 million, by one third as a State subsidy during the strike action. It's that, it's very simple. And I'm not sure that granting a loan to Wien in any case, you know, will enhance the development of industrial development in this State. I'm not sure that increasing a monopolistic force in bush transportation is going to do anything for this State. I think perhaps they might do better

in the Alaska Industrial Development Authority to look to private communities and private individuals to develop the airlines and airport facilities so that other airlines can use them as well. Competition is not a bad word. I think it is a good thing. You know, Mr. Peterson talked about a bit of financing and these people are fooling around in terms of ALPA, and that any settlement would cost money. Well, that's probably true, but we're talking about people in this State that have to make a living in order to live in this State. And if the State is going to take the position where they're going to give these people loans while they're on strike, that is fine, they can give Wien a loan while they're on strike, too. But, if they aren't, I think that position of neutrality is extremely important, it is extremely important. The other thing was, was talking about information being made available to bonding authorities in order to make a valid decision. This is a letter I'd like to enter into the record that came to mind. This was written January 10th from James Flood, written to the Wien employees. And this has to do with, published information should be made available in order for a bond to be issued to Wien Alaska Airlines. Well, the following is a reminder to all employees: No employee shall reveal, except to proper representatives of the company, any confidential matter of the company or give any information concerning business of the company which he may acquire on account of his position or the nature of his employment. Now, that means that anything detrimental to this bonding problem, and that the employee was aware of, as a citizen of the State of Alaska would be subject...ah, it says violation of this policy will result in discipline, up to and including dismissal. That means if an employee said something that was detrimental to this bonding problem, they'd be fired. They can't even talk in this room right now because of this letter that came out, they, it came out prior to this Concurrent Resolution, but it's been applied to it. They were told specifically, in several instances, that they could not address this Committee, because they would be subject to being fired. I'd like to enter that in the record, and I'll leave that copy with you. I think...

Senator Hohman: I'm not so sure that this is relevant to...

Mr. Aaron: It's relevant to any Congressional hearing, and...

Senator Hohman: I'm not sure this is relevant to the purpose of this Concurrent Resolution, but we'll take it...

Mr. Aaron: Yes, sir, I'd like to say why I think it's relevant...

Senator Hohman: Mr., I would like to finish my sentence, then I would be happy to have the floor at the conclusion. But we will take this, and review it for possible inclusion in the Committee records.

Mr. Aaron: Thank you, sir. I do believe that it is relevant for the following reasons, is that, any time the Senate has a hearing, that people in the State of Alaska should feel that they have the right to speak openly to a Senate hearing, so that information can be gotten and can be accumulated in a reasonable manner. Any time the company that's involved in a specific question, in this case this bonding of \$19 million dollars, says to its employees, who are also residents and citizens in the State of Alaska that you can't speak to the Committee, I think it's pertinent. I think that that policy should be examined very carefully. I think the questions of neutrality is what I wanted to approach, and I think I've said pretty much what I have to say as a member of a labor union in Alaska, that it's important that it be maintained. I applaud the Senate Resolution for doing that.

Senator Hohman: Are there questions of Mr. Aaron?

Senator Sumner: I'd like to talk neutrality with you. Under the outside possibility if you could at all conceive that this loan might have gone through had the strike not occurred, financial conditions or Wien's financial conditions debate notwithstanding, if the loan could ultimately have been consummated and this Resolution were to stop that, do you see that as a neutral position of the State?

Mr. Aaron: I think stopping all action on it is a neutral position by the State. I think, like I said, the airline pilots sitting here and those on strike against Wien are not eligible for unemployment insurance. That's ninety dollars a week. I see no reason why Wien, and saying this, in other words, if it hadn't been for the strike, these pilots would be eligible for those ninety dollars a week. That's what, in essence, I'm putting it on their side of the point. In order to remain neutral, the State should give them no financing at all. These questions should be put in limbo until that strike's settled.

Senator Hohman: I think we have a tape change now, so we'll break for just a minute.

Senator Sumner: And you feel, that your view of this neutrality issue is an objective...

Mr. Aaron: Well, my view of this neutrality is not, as Mr. Peterson said, I may not be the biggest taxpayer in the room, but I've been a continuous taxpayer and I've worked continuously as long as I've lived in this State. And in a personal opinion, as a member of a labor union, and as a taxpayer, I feel that for the State to grant this loan at this time and to underwrite this bonding issue would be to support Wien Alaska Airlines and say that these pilots do not have the same type of bargaining rights as they do. I think it would defeat the cause of neutrality.

Senator Hohman: I think that is all. Thank you.

Mr. Aaron: Thank you very much.

Senator Hohman: I just read my notes here, we do have one additional witness, Mr. Terry Palzer, excuse me if I've mispronounced your name.

Mr. Palzer: Thank you. I'm Terry Palzer, residence Star Route 10671, Fairbanks. I'm here primarily today in behalf of myself, but I thought I'd speak up in the capacity of an ex-borough assemblyman. At the time that this Resolution was brought up before the Assembly last month, at that point in time, emotional aspects of what was going on within the Assembly and within the community weighted my decision as a businessperson. Let's take a look what the Alaska Industrial Development Authority was supposed to do, that's what this Resolution is all about. Being for the purpose of promoting, developing and advancing the general prosperity and economic welfare of the people of Alaska. In my mind, that is exactly what this bond issue is doing. In separating the labor situation from the situation of a business, and what the Authority is directed to do, I tried to focus in on that particular emphasis. Then in looking at the second portion of your Resolution here on

page 3, line 2, excuse me, line 4, excuse me, let's start with line 1. Projects and its development under the Act will be economically advantageous to the State. In analyzing that particular aspect of it, I looked at the cost of doing business for an airline and in recognizing (54)\* tax-exempt status for bonding the physical facilities would in fact help to level off and possibly decrease the cost of doing business. This in fact would be advantageous to the general welfare of the public. Line 4, the project occupant is financially responsible, a value judgment that I could make at that particular point in time. It is a financially responsible business and that they are in business, they are in fact trying to do somewhat of a good business, activities on behalf of their stockholders, by trying to finance some activities at the best reasonable rate. Now looking at the situation from the strictly, as a business point of view, that was some of my observations. The other point of it, as Mr. Fuller brought out in regards to probable problems with Wien and which was brought out very graphically, trying to get their attention, which certainly has the attention here obviously. And to me this was two separate problems. You can identify problems with Wien on the aspect of prejudice for or against Fairbanks and separate the labor situation and look at it from a business aspect and you have a great big gray area in the middle. In looking at the statute of what the Alaska Industrial Development bonding Authority is supposed to do, and what their charge is, and strictly on that basis is as someone at that point in time, I voted for it. When the rescission came up this was based again on the emotional aspects of it, the great big gray area, and I again voted for it, and I still, at this point in time, would say this Resolution is not, in my opinion, pertinent to what the activities of the Alaska Industrial Development bonding Authority are or the neutrality aspects of the State of Alaska in any activity and puts certain groups which were having problems in other businesses in the State, which you're well aware of, of interest groups putting pressure on given businesses, private business, with a special direction in order to force that business into certain activities and, in my opinion, that's very distressing to me as a businessman. With that, I'll open for questions.

Senator Hohman: Questions?

Senator Sumner: What, essentially, was the, in order to approve it initially, what was, in your opinion, or your view, what was the mood surrounding the discussions around the original approval and how did that change in terms of any objections they had submitted to the Council, in your view.

Mr. Palzer: The first time it came up there were representatives from Wien, which brought in some details of the financing package. We had certain questions. There was real questions in everyone's mind at that point in time, the initial Resolution that came through was very vague, just said general facilities. I believe it was Mr. Nelson, and Mr. Blighten (92)\* at that point in time, came up. We postponed our action after that. We had a meeting with Mr. Flood in the basement of the Assembly chambers, an open meeting, to discuss in detail what these facilities were for, what the dollars were for, how much was being spent in Fairbanks or had been spent in Fairbanks, and we all recognized that part of the problem was the residents in Fairbanks wanting to know why Anchorage was getting so much of the money for new construction, that problem was taken a look at. Questions were brought up in regards to aircraft financing, that this was not financing aircraft, and so forth and so on. At that point in time, everyone was somewhat satisfied at what the activities were. We expressed our

community problems with Wien and the overflight activities which are part of Wien's problems and activities of freight tariff situation. Subject to that, or subsequent to that, when the rescission came up at a meeting, it was primarily in response to the, as I understand it, the ALPA theme, cognizant of what was going on here and expressing, certainly they have every right to and so forth, expressing their opinions and trying to get their opinions across in settling their dispute with Wien. In my opinion that's still was totally separate from what the Alaska Industrial Development bonding Authority is supposed to do and the, what they wanted the local governments to do.

Senator Sumner: Was the issue of Wien's treatment of Fairbanks and shipment schedules and all of that, was that discussed in the first...

Mr. Palzer: It was, yes...

Senator Sumner: So that wasn't a new subject?

Mr. Palzer: No, it wasn't new. It had become increased, particularly with the recognition of the, as I understand it, the local pilots, particularly, expressing their opinions to their, to namely Mr. Karella. And, in the other people reacting in the same, in my opinion, reacting in the same thing that that there are people here that are concerned that they don't have jobs at this point in time. And I think that it's primarily an emotional reaction, and trying to get attention.

Senator Sumner: So are you saying that a major part of this opposition was generated out of the pilots' association?

Mr. Palzer: Yes.

Senator Sumner: And it was not a broad-based citizens feeling or attitude? Is that your view?

Mr. Palzer: Well, people that have been here many years have seen the situation with Wien change for whatever reason. I don't think it was as broad a base as it's made to be believed at times.

Senator Hohman: Mr. Kocsis?

Mr. Kocsis: Just a brief question. Mr. Palzer, how do you define general public welfare? Just briefly, could you do that?

Mr. Palzer: General public welfare...

Mr. Kocsis: One of the requirements that you read is that this be advantageous to the general public welfare, and I'll be very specific, I'm wondering, aren't the pilots part of the general public welfare? They've appeared and told you it's not advantageous, where do you draw that line?

Mr. Palzer: Where do I draw that line...that's a very touchy question. This is labor in itself, I was looking at it from a business aspect of that business being able to provide a service and what that would be doing as general public welfare. What happens between the business and the labor situations and their suppliers around them is totally separate, in my opinion.

This was not influencing the labor situation, this bond issue, in my opinion. It did not say that it had to be union, non-union, or that you deal in good faith, or that you would have a current, didn't have any labor situations, you know, on hand, that were in dispute, this type of thing.

Mr. Kocsis: Do you drop out of the general public welfare, then, if you're in a labor union?

Mr. Palzer: No, of course not. Did I make myself clear?

Mr. Kocsis: Pretty much, it's a very difficult area, you're right, and I appreciate your comments.

Mr. Pelzer: It is, and I'm probably listening to Mr. Kurley and financial status and the aspect of the functionability of the business. That would have to be a value judgment that each individual would have to make with the criticability (145)\* that were at that point in time. They're a functioning airline now, full schedules.

Senator Hohman: Are you in business, personally?

Mr. Palzer: Yes.

Senator Hohman: What is your business?

Mr. Palzer: Consulting business, engineering management.

Senator Hohman: There are no further questions, thank you, Mr. Palzer.

Senator Sumner: Just one further one. Are you doing any consulting work for Wien?

Mr. Palzer: No.

Mr. Peterson: Mr. Chairman, for your information...

Senator Hohman: Yes, Mr. Peterson?

Mr. Peterson: I have never met the man, but if I see him later I'll buy him a drink.

(Laughter and inaudible asides from audience)

Senator Hohman: I think that, since we had Wien response to some of the ... he'll buy everybody a drink? I didn't catch that...(laughter from audience) Since we had Wien response to some of the statements by the pilots, are you through or did you have something else? O.K.

Mr. Palzer: Thank you.

Senator Hohman: That it is proper to let the ALPA position or questions they may have concerning the, concerning the Wien statements...so, Mr. Lenahan, do you wish to come...?

\* Tape #6

Mr. Lenahan: Mr. Chairman, thank you for the opportunity to respond. As the "hired gun" for ALPA, I feel that I ought to unload the rest of my bullets.

Senator Sumner: Mr. Chairman, maybe just before he does, may he tell us who hired him? As an acknowledge hired gun, would you be kind enough to tell us who hired you?

Mr. Lenahan: Yes, I'm employed by the Airline Pilots Association.

Senator Sumner: One of our locals?

Mr. Lenahan: No, I'm employed by the International Union, and of our affiliates is the member pilot groups, is the Wien airline pilots.

Senator Sumner: And where are you based?

Mr. Lenahan: In Washington, D.C.

Mr. Wohlforth: (From the audience) Mr. Chairman, if I may state this is to be a main case rebuttal, in that rebuttal situation we would have (185)\*

Senator Hohman: I think that since, are you with Wien? (Laughter from audience) We have had the response to some of the points that the ALPA people made by those interest groups that followed them. I think it's not out of line to give Mr. Lenahan an opportunity to respond to some of the things that Wien has said. I don't know, you know, you're an attorney and you're familiar with this. The only thing I'm operating from is a sense of what's right and wrong for this man in the street, you know, I'm a country boy. Senator Sumner points out that the Committee would be receptive to anything that you wish to submit in writing after this, or, if you'd like to come back again and give more testimony today, we'd welcome that.

Mr. Lenahan: Mr. Chairman, for purposes of setting the record straight, I'd like to show you for the record a copy of the installment sales agreement, which was provided by Mr. Wohlforth, some time, I guess, in the beginning of January, pursuant to our request for documents from the Authority. I believe he indicated, and, perhaps he was thinking of some other document, that the draft of the installment sales agreement had "DRAFT" on it. You'll note in the copy that we have, and I assume the copy that you have, there's no reference thereon to the word "DRAFT". I note that for the record, for clarification purposes. And I will note further, with respect to Mr. Wohlforth's contention that if he had known that we wanted copies of the agreement between the Authority and bond counsel, himself, or copies of the financial agreement, the fee agreement between the Authority and First Southwest he would have been happy to provide those, I think I stated in my original statement that we did ask for those documents, and I have here a copy of the letter which was sent from Mr. Germaine to Mr. Wohlforth on the 22nd of December, 1977, and I'm, I could be stand corrected in the event Mr. Wohlforth did not receive this, but I believe it was hand-carried. On the second page of our letter, item number nine, requested any documents setting forth the compensation to be paid the Authority's bond counsel and investment bankers, including, but not limited to, the source or the sources of said compensation, unquote. So he does have, so far as I know, such a request and it's been outstanding since December 22nd, that he has never responded to. With respect to the contention that it would be perhaps

inappropriate, and he still has some reservations about disclosing draft documents. I can well appreciate the difficulty, inasmuch as they are work product and they are in the drafting stage. But, on the other hand, when we are preparing to appear before public bodies, local governments, this Committee, and so forth, it is very difficult to speak without some foundation, without some factual basis. And if the documents are invalid or obsolete, or perhaps stand amended, then we will be corrected. But to the extent that we are to make meaningful presentations, we needed those documents and that's why we requested them and we think that's the only way to proceed.

There were statements made, and I'm not sure if this was limited to Mr. Wohlforth, I know he discussed this and I believe that it was discussed by some witnesses subsequent to him, with respect to the, with respect to the knowledge and the understanding that the Authority must have regarding financial responsibility of the company, of Wien. It seems to me that is a primary responsibility of the First Southwest Company in the first instance, because they are the financial consultants to the Authority. So to the extent that Mr. Kurley says that he doesn't know, I think we would have to take issue with that, it's his responsibility to know and convey that knowledge to the Authority, because they ultimately have to make the finding of financial responsibility. And according to Mr. Hutchinson, with whom I spoke last week, Mr. Hutchinson I believe is the senior partner in the firm of Hutchinson, Price and Ely in Dallas, who I must say was very cordial to me. When I spoke with him and asked him if he would accept information from us regarding this bond issue, he said that of course they would only make, or render, a disclosure to the prospective purchasers on the basis of then current, up-to-date information. Financial responsibility, it seems to me, is something that is ongoing and has to be disclosed right up to the final moments of the transaction, and it is the responsibility of the Authority and it's consultants to provide that information. Now, here again is a matter that perhaps I could stand corrected on at the present time. But my recollection is that, in the documents that I looked through last night, First Southwest indicated in its proposal to the Alaska Industrial Development Authority to serve as their, as their bond consultants as their financial consultants, that one of their clients was Wien Air Alaska. Now, Mr. Kurley has been in the business for a long time, and he can perhaps address himself to this problem, but it just strikes me as a serious problem. If the First Southwest Company as the financial consultant to the Alaska Industrial Development Authority has a primary responsibility of seeing to that the Authority conducts its business properly and in accordance with the law and doesn't exercise its authority unless they're doing so in a proper fashion, an appropriate fashion, then they're, I just don't see how there would not be a conflict if they also have as one of their clients an applicant for the bond issue. Now, maybe they no longer represent Wien, and that would cure that problem.

Now, in Mr. Peterson's remarks, he indicated that it would be difficult, if not impossible for them to obtain conventional financing, as I understood it, because of the single-purpose facilities located on State leased land. That seems to me to be a basic conflict with what we heard earlier, from some of the other witnesses, who said that in order to qualify for Alaska Industrial Development Authority bonds, the applicant must be equally eligible to obtain conventional financing. So, if Mr. Peterson, as the chief operating officer and the Chairman of the board of Wien Air Alaska admits here today that it's been virtually impossible for them to do that because of the predicament

they find themselves in with the State leased land facilities thereon, then how is it that they qualify under the Alaska Industrial Development Authority for the issuance of these bonds. Lastly, in commenting on something that the last witness, Mr. Terry Palzer, I believe, I think it was very candid of him to admit that he was speaking as a businessman. So I think that it's important to note in addition to the statute saying that the bonds are for the economic benefit of the people of the State of Alaska, which is certainly true, and he addressed himself primarily to that particular point. He omitted to direct his attention to the second emphasis of the statute, which I think all part and parcel of it, and that is to relieve problems of unemployment and to create additional employment by means of this financing vehicle. Our contention has been all along that if the company receives the benefit of this bond issue, at least in two more years, it will be in a far better financial situation to keep the pilots out of work and to alleviate itself of the economic pressures of the strike. So it's not relieving unemployment, it's simply perpetuating it. I have nothing further, Mr. Chairman. I appreciate the opportunity to respond.

Senator Hohman: Questions of Mr. Lenahan?

Senator Sumner: Questions and some comments. Up to this point, I've reasonably well understood where people were coming from and the interests they represented and the things their statements reflected essentially what their biases were. But I'd like to comment, your summation, in my opinion, Mr. Chairman, clearly is either a case of selective hearing or a selected presentation. It did not, in any way, under any circumstances, and I want you to open that back up, because we're going to go back through them one at a time, and I'm going to refresh your memory or we're going to call witnesses back to this table to do so in case you have had, heretofore, some problem in listening to the testimony, that's entirely possible. Now, one item, Mr. Kurley, in response to questions from me, stated that it was his primary responsibility to know the status of Wien Alaska. You seem to have some problems with that, and you didn't understand him clearly or what was your problem with that?

Mr. Lenahan: No, I had no problem with that. It's my understanding that he said that one of his primary functions was to assure that the applicant was financially responsible. And I, perhaps, I'm mistaken, but it was my impression that he said subsequent to that that he could not address himself to the present financial status of Wien.

Senator Sumner: I think you'll find that to be in error. We'll, I think we want to make specific note of that and have it...because I think it's very important in terms of the way that testimony is presented here, to see if there is an attempt to present facts as nearly as we can possibly grasp them. I think you will find that to be wrong. Second...

Mr. Lenahan: I indicated, Senator Sumner, that I was prepared to be corrected on some of these points if I was mistaken. There was a lot of testimony today...

Senator Sumner: Well, you see, I understand, but you see I gave you the benefit of the doubt of being much further ahead of that, and as the Chairman has referred to it, most of us are just country boys, but you could have me fooled, but I don't think so. So, let's take the next one. Regarding to the insinuations

of conflict of interest, and leave that one slide carefully by. Are you by, do you in, in any context, believe that there's been any impropriety existing in the relationship that exists, from start to finish, in the issuing of the bonds that's, or the processing of this application? Do you intend to impugn anyone? Is there anything you've heard today?

Mr. Lenahan: I'm not impugning anybody, and much of the information, as I said, we don't have, in final form, because we don't have any of these agreements.

Senator Sumner: I understand, but we're talking about conflict of interest, and where they got paid.

Mr. Lenahan: What I'm saying is, is that, based on the documents that I have seen, there has been a relationship, a financial relationship between First Southwest Company of Dallas, Texas, and Wien. They reported, at one time, as I recall, that Wien was one of their clients. Now, it's also my understanding that as the financial consultant to the bond authority, they have a primary responsibility to the Authority. Now, if they're representing the applicant for the bond issue, and they're also representing the Authority which ultimately has to make the decision as to whether or not the bonds should be issued for the benefit of the applicant, then I see a potential conflict. What I am suggesting to you is, is that, as a Committee of the Senate, and a fact-finding body for purposes of this Resolution, that it behooves the Committee to find out what the facts are. I am not accusing or alleging that there is, in fact, a conflict of interest. All I am saying is that based on the documents we have seen, there is a potential conflict. There is perhaps an appearance of a conflict, which could be resolved. As I indicated before, it may be...

Senator Sumner: I'm attempting to resolve that right now.

Mr. Lenahan: The company may not represent Wien at this time, and if they don't represent Wien at this time, then, I think that would eliminate the conflict, or the potential for it.

Senator Sumner: I'm still curious. In your view, and in your opinion is there anything peculiar in the relationship that exists between bond counsel, the, Mr. Kurley and the bond counsel, I forget your name, I'm sorry. Mr. Price. Is there anything peculiar, on the basis of everything you've viewed or reviewed, or been introduced to you. Is there anything peculiar about that relationship, that would make you suspect.

Mr. Lenahan: No, there is nothing peculiar about the relationship between Mr. Kurley and Mr. Wohlforth and Mr. Price or his (408)\* local. I don't see anything, anything that constitutes a conflict of interest in that relationship.

Senator Sumner: O.K.. Then again, see, I misunderstood you. In terms of your call to the offices of Mr. Price and his associates, what prompted that, I mean I know you wanted to assist and help his bond buyers at large, but other than that, what did you...

Mr. Lenahan: There are a number of people involved in the transaction of this kind as Mr. Kurley described. There is the Authority, there is the applicant for the bond issue, there is counsel to the applicant for the bond issue,

I believe in this case, according to a memorandum we saw that is Boyle and Gates in Seattle, the law firm that represents Wien. There is the bond counsel, Mr. Wohlforth, there is the financial consultant, that is the First Southwest Company of Dallas, there is counsel for the prospective purchasers, Hutchinson, Price and Boyle. Now, as an attorney, I normally do not contact a person who is represented by counsel. I contact counsel. I have no idea who the prospective purchasers are in this case. I had no idea what the function or the role of bond counsel, or purchasers counsel was. Last week, in trying to determine, among other things, whether or not the bond issue was imminent, because we've been informed that it might be imminent, I called the law firm and I asked to speak with the partner or the associate who was working on the Alaska Industrial Development bond Authority. Mr. Hutchinson answered the phone. We spoke for almost a half an hour, he was extremely cordial, he explained to me, his conversation with me was a mirror of what Mr. Price said today. He explained the function of purchaser's counsel, he said to me that in their capacity as purchasers' counsel they have to make disclosure to the purchasers. Therefore they would invite us...

Senator Sumner: Up until that point, pardon me just a minute, you didn't understand the role or the purpose of bond counsel?

Mr. Lenahan: No, purchaser's counsel.

Senator Sumner: Purchaser's counsel.

Mr. Lenahan: That is correct. I didn't know what their role was. He told me that it was as Mr. Price said, to examine the legalities of the transaction, to examine and render an opinion as to the tax-exempt status of the interest paid on the bonds and to make full disclosure to the purchaser's counsel, they represent purchasers. So he said in that capacity, and in fulfilling that third function, they would invite, they would invite me to write up a letter to them to respond to written form as to what the contentions of the pilots were in the strike, or views on the bond issue, and any other material or relevant facts that we might have with respect to the bond issue, excluding any rhetoric or irrelevant material. And I told him I would be happy to do that, and as soon as we had an opportunity we would do so. And that time was late last week...

Senator Sumner: Had you at that time reviewed the statutes essentially surrounding the authority for issuing the bonds under the...

Mr. Lenahan: Yes, I had, sir.

Senator Sumner: O.K. It would lead me to think that, did you find, after reviewing that, that there was any statutory violation that had occurred, or any statutory reasons that this shouldn't continue, or was there any statute being violated, in your opinion?

Mr. Lenahan: Yes, I think I mentioned them earlier, but I'll...

Senator Sumner: Oh, yeah, right...

Mr. Lenahan: The two specifically. Insofar as the Alaska Industrial Development Authority Act itself is concerned, we felt that if the proposal were to come to fruition and the bonds were to be issued, the Authority would have violated the statute insofar as the statute does not provide, in our opinion, for bond proceeds

to be allocated to refinancing. We felt that that's the crux of the matter. Furthermore, that in rendering an opinion that the bonds should be issued, and then actually issuing the bonds for the benefit of Wien, particularly insofar as the refinancing is concerned, that would violate the strict neutrality policy of the State, with respect to labor disputes. And, in one other respect, a more procedural aspect, we felt that the Authority was remiss in not giving more particular and more timely public notice of the two prior meetings that were conducted with respect to this bond issue. As I indicated, the two notices were given in the Anchorage papers, I believe, two days before the meetings and the notices themselves didn't specifically refer to the proposed Wien bond issue.

Senator Sumner: On the basis of that review, have you ever, you admitted to being somewhat, or at least not familiar with the purchaser's counsel?

Mr. Lenahan: That's correct.

Senator Sumner: Have you, in the course of your business, been involved in this type of stock issuance before?

Mr. Lenahan: No.

Senator Sumner: Have you rendered legal opinions and decisions before?

Mr. Lenahan: No.

Senator Sumner: Did you hear testimony here today that two bond counsels established in the business have found, do you have any confidence in their opinion?

Mr. Lenahan: I have a great deal of respect for Mr. Hutchinson's law firm and for Mr. Wohlforth's, but I don't think they're infallible.

Senator Sumner: I understand. And have you notified anybody as to, regarding your opinion, with the items in the statutes dealing with the refinancing aspect of it under the and the neutrality. Have you notified anyone? Have you notified the bond counsels, Mr. Wohlforth, or the...

Mr. Lenahan: Well, we, yes, yes, as a matter of fact I think Mr. Wohlforth indicated earlier that I had met with him back in December and we discussed the matter in his office and we shared opinions and we joined issue on those opinions. And the areas that I've discussed with you are among the items that we had discussed.

Senator Sumner: You didn't resolve it to writing or write a letter to anybody or notify counsel or the Authority?

Mr. Lenahan: Well, we have discussed this matter with Mr. Wohlforth many times, we've presented our views in public in at least eight or nine various public forums. Our views have been expressed in the press on a number of occasions. I think, and I haven't spoken personally with Mr. Hubbard or any other member of the Authority, but I'm confident that our views have been expressed to Mr. Hubbard through other representatives of the pilots association.

Senator Sumner: Yeah. I'm trying to put some weight, in terms of your evaluation of these statutes, and the thing that comes to my mind, and I want to, so you don't operate under the disadvantage of me going away and not having this cleared up. In my mind, I see that you reviewed the statutes, did not come up with anything significant in order to challenge it, otherwise there is a vehicle to challenge the issuance of these bonds, the Administrative Procedures Act and the courts, presumable vehicle, if there were clearly an illegal...

Mr. Lenahan: May I address that?

Senator Sumner: Sure.

Mr. Lenahan: Alright. Insofar as, insofar as addressing the matter in the court is concerned, I don't think anybody wants to do that initially. And as a matter of fact, it's my understanding as a lawyer that before you take a matter involving the proper conduct of an administrative agency into court, you have to quote "exhaust your administrative remedies." That means that every step in the process that permits you to voice your opinion and voice your objection before the matter finally comes to a head has to be exhausted before you go to court. That's what we've done. We wouldn't presume to go beyond the local communities without informing them of our views, we did that, and in many cases they rescinded. This hearing was conducted, we felt that this was an important part of it. We have been told that the Authority will conduct a final hearing before the bonds are issued. It's very possible, Senator Sumner, that if it ever gets to that point, that we might present our views and we might prevail. The Authority might very well decide not to issue the bonds. Consequently, under the law we could not go to court before we exhausted all those administrative remedies.

Senator Sumner: Let me, in, let me ask you to address yourself in terms of specifics. You mentioned the neutrality one here, which is still in dispute, and as I go away today I have marked that one as being unresolved and, at the moment, in my mind. I'd like for you to clarify for me any others that you feel that are listed in this Resolution, which are incorrect or is it your opinion they're correct as they stand, since you reviewed the, you know, the statutes relating to this Authority?

Mr. Lenahan: I'm sorry, I'm sorry, perhaps I did not understand the question. Are you asking me if I agree with the Resolution?

Senator Sumner: No.

Mr. Lenahan: Or if there are other points in the statutes that I feel have been violated or not complied with...

Senator Sumner: No...Inasmuch as this is all, essentially, that is before us. I'm trying to determine, because I honestly don't know whether the things set out in here are true or not true. So, I'm asking you to assist me in terms of saying, yes, on page, or specifically on page 2, line 11, that is correct or it's not correct. Or line 14, as it continues, is correct or not correct.

Mr. Lenahan: Well, I've read it over and I was in agreement with it in the first instance, so if you'll allow me, I'll read it again.

Senator Sumner: I understand and accept that.

Mr. Lenahan: That, that the, that in real terms, the State, the State's coffers, the State revenues are not pledged in a bond issue of this kind. That is, to say that the bond holder, from what I know about the agreement and from what I know about the proposed agreement and from what I know about the statute, would not be pledged. And to that extent, therefore, the whereas clause in 19 through 21 would be ineffective. But I condition that on the basis that the documents that we have right now are apparently no longer valid and we would have to examine the new documents when they're final.

Senator Sumner: O.K. Looking at line 11, whereas it appears that Wien Air Alaska intends to use the proceeds from the proposed bond issue for purposes other than authorized by statute, on the basis of what you've been given, you think that's still a, interesting?

Mr. Lenahan: Yeah, I do.

Senator Sumner: Alright. So lines 14 through 21, with the disclaimers stated heretofore, are you, did I understand you to say that those would not apply.

Mr. Lenahan: That's my legal opinion.

Senator Sumner: I understand.

Mr. Lenahan: Nor do they, I, perhaps I should qualify that now, as I said, I don't believe that the State coffers or revenues would be directly affected. However, I think that there is some question about the State credit being affected because when you lend money under State auspices with the State name attached to it, that is indirectly, in my judgment, going to affect the credit of the State if the loan is not repaid or if there's a default.

Senator Sumner: O.K. We can continue from there then if you want me to  
(60)\* Inaudible Are there any other...

Mr. Lenahan: I'm sorry, I'm sorry, yes, as far as the remainder...

Senator Sumner: I'm sorry.

Mr. Lenahan: Of page two is concerned...

Senator Hohman: I had handed the questioning to Mr. Kocsis.

Mr. Kocsis: You wouldn't agree, or disagree, would you that if there was in fact a default ownership, it would be a direct cost, it would be a violation of that statute, wouldn't it?

Mr. Lenahan: Repeat the question?

Mr. Kocsis: In other words, if the State...reading 19, whereas the default ownership or payment of debt service costs by the State or one of its political subdivisions would be a direct violation of the provisions of this statute. You don't disagree? That would be, wouldn't it?

Mr. Lenahan: Absolutely. Absolutely.

Mr. Kocsis: In fact, that as a statement, 19 through 21, is a true statement. You don't disagree with that?

Mr. Lenahan: No. What I said was, that to the extent that I believe, based on, on language in lines 14 through 18, to be inaccurate. That is to say, I do not believe that the State coffers or the State revenues would be directly affected if there was a default. I don't believe the bond holder could bring a suit against the State and collect from the general revenues of the State. Consequently, I don't think that there would be a violation of 19 through 21. But on the other hand, if there was, if there was such an agreement and if the bond holders could, under the Alaska Industrial Development Authority Act, and under the trust indenture and under the financing agreement, properly sue the State of Alaska and obtain monies from its general revenues, then I think there would be a violation.

Mr. Kocsis: Thank you, sir.

Mr. Lenahan: Continuing on, on line...

Senator Hohman: Just a moment. The State coffers are not threatened because, why, my question is. It's because Mr. Price has been charged to write his, the bond language in such a way that we're going to be removed from that.

Mr. Lenahan: I think there is two reasons. Again, I'm rendering my own legal opinion and as I told Senator Sumner before, I don't purport to be an expert, I just don't agree that Mr. Wohlforth and Mr. Price and his colleagues are infallible. We have a position we've taken and we'll stand by it. Getting back to this question. Based on my reading of the statute, the property which is or may be owned by the State pursuant to one of these financing agreements, not the State, I'm sorry, but by the Alaska Industrial Development Authority, is not property of the State. The statute says that. So, for example, let's assume for the purposes of my discussion, that there really was an installment sales agreement entered into and the property of Wien was conveyed to the Alaska Industrial Development Authority for the term of the bonds and upon payment of the bonds, or redemption of the bonds, the property was conveyed back to Wien. Now, during the period from day one through year 25, when the bonds were redeemed, according to the statute, the property which was, which is the property of the Authority is not the property of the State. The statute says that. And furthermore, to add to that, you have the proposed agreement, the financing agreement and the indenture of trust. And as I understand it, it's very, and from what I've read it's very clearly spelled out that the property would not be the property of the State, the property would not be, or the State's full faith and credit would not be pledged. So the bond holder would be on notice from two perspectives: he's charged with the knowledge of the law, presumably Mr. Price's law firm would advise the prospective purchasers of that, and furthermore he would have a copy of the agreement, which he'd signed and that would also tell him that the State's credit is not pledged. But as I said earlier, I add the caveat, as long as the State's name is on those bonds, if the person is not financially responsible, I believe that could affect the State's credit, that's my personal opinion. So indirectly the State's credit is affected. Shall I continue? Lines 2 through to line 29 on page 2, of the Resolution I believe to be accurate. I have no quarrel with that language. Turning to page 3, which I believe is

the final page of the Resolution, I have no problem with that language. The only question I have, and I would need somebody to show me the scorecard at this point, I'm not sure whether or not it's accurate to say that six Alaskan local government bodies with authority over a total of seven Alaskan communities that would be affected by the proposed Wien Alaska bonding have failed to pass or withdrawn their required resolutions of support for the projects. I have problems with the number six and I'm just not sure whether that's still accurate. In light of the...beyond that, beyond those terms and conditions I attached, I think that the Resolution is an accurate one, and as I've said, I think it should be adopted. Except to the extent that it may require an amendment because of the (127)\*.

Senator Hohman: Further comments, Mr. Lenahan?

Mr. Lenahan: Yes, the only comment I do have is, I wish to address myself to Senator Sumner's obvious concern at the beginning of, or the end of my reply remarks, that I have said or done something improper. To the extent that I may have, I may have caused him some concern in that respect, I sincerely apologize. Our purpose is to see to it that the facts are brought out. We recognize that there are two sides to this issue and that ultimately one side will have to prevail, it may not be ours, it may not be the position we take, and if that happens so be it. All we want is for the facts to be elicited. That was my only purpose in responding to some of the comments that have been made earlier. When I initiated my remarks, by commenting on being a hired gun, I hope that Senator Sumner understood that I was simple saying that in jest. I'm sure that Mr. Peterson meant it in jest, and if we can't add a certain note of humor to proceedings of this kind, we're all in very big trouble. I thank you all for the opportunity to address you, and once again, we're available for any additional questions or answers, information that we could provide.

Senator Hohman: Thank you, Mr. Lenahan. Mr. Wohlforth, do you wish to...

Mr. Wohlforth: (Inaudible)

Senator Sumner: I don't know, and I'll tell you it depends on who's buying some dinner.

Senator Hohman: OK. Let's see. Mr. Karella, am I pronouncing that correctly?

Mr. Karella: Yes.

Senator Hohman: Had a brief statement he promised. A very, very brief statement. He says it's a very brief statement and he signed it.

Mr. Karella: And I'm Andy Karella again. Since Mr. Palzer was questioned as to the input I had, I believe I'd rather answer that myself. I did have input from two pilots, Wien pilots, and since they have declared themselves, I can name them if it's necessary. The majority of my input was not from pilots, but from stockholders, employees, and businessmen, business leaders in this community. Since I have not discussed with them releasing their names, I am not free to do it now, but I would like to ask if anonymity will be allowed to these people if they enclose, send writing to this Committee. Would that, in particular in view of the letter that Mr. Aaron produced, the note, because I have known, I have worked closely with the Wien working force for twenty-five years and

I know hundreds of people who still do and who have worked and who have been employees and officers with Wien. And I am not free at this time to release any of their names, and in particular, in view of that letter.

Senator Sumner: Mr. Chairman. For my part, I don't need it. I just need to ask him a couple of questions and put the record straight for my standpoint. If that's agreeable with you, because I'd raised that...

Senator Hohman: You have questions to ask? OK.

Senator Sumner: You're a city councilman at this time?

Mr. Karella: No, borough assembly.

Senator Sumner: Borough assembly. I understand. And many constituents contacted you and of those, do you believe that they represented a true cross section of Fairbanks?

Mr. Karella: Yes, sir, I do. If anything, they were far more leaning toward businessmen than labor. Like I say, I considered the labor, I considered the pilots, but there were other employees with other labor problems with Wien's that contacted me, but, well, to put it succinctly I defeated a labor candidate when I became elected, so I'm not necessarily known as a proponent, all out, for labor, but I do believe that they are part of my constituency.

Senator Sumner: OK, but I'm just concerned, primarily, with the fact that, in your opinion, it was not the product of a select group of people.

Mr. Karella: No, sir, it was not. And I can, I can get them to respond to you, some of them, if necessary.

Senator Sumner: No, thank you.

Senator Hohman: Further questions of Mr. Karella. Thank you.

Mr. Karella: Thank you.

Senator Hohman: Mr. W. James Stringer.

Mr. Stringer: Gentlemen, I've waited until the end of this hearing because I'm here more or less representing a third party and it is not, what I have to say does not address itself to the current situation between Wien and its employees. However, it does address the use of the bond Authority and the proposed audit that's mentioned in this Resolution. I assume when you talk about auditing, you talk about auditing not only the use of the funds, but the rationale for the use of the funds and that's the reason I'm here. I'm a resident of the Fairbanks North Star Borough, and I'm here to present testimony as the president of the Fairbanks Town and Village Association for development. It's a non-profit corporation, under, organized under the federal Economic Development Administration. TVA exists in order to encourage and coordinate economic development within the specified boundaries of our economic development district, which contains over a quarter million square miles between the Alaska-Canadian border and Holy Cross, on the lower

Yukon. Our Board of Directors is made up of thirty-one representatives from towns, villages and cities within this area. The association has developed an overall economic development plan for the district which deals with many facets of regional economic development. Chief among these is transportation to and within the economic development district. Related to this, TVA has been involved in improvement of roads, airfields, and small boat harbors. Along with improvement of village airports, the improvement of the Fairbanks airport, particularly as related to regional economic development, has come under our consideration. We have identified a number of capital improvement projects at the Fairbanks airport as important to our regional concerns. In order to accomplish these goals, we have considered the industrial revenue bonding program as a potential useful tool. Obviously, then, we are quite concerned with any legislative activity concerning this program. It is our desire, in your proposed audit of the Authority, particularly to consider the Authority's performance in determining that, and this is a quotation from the enabling legislation of the Authority, or a paraphrase of the legislation. And in its development, under the Act, will be economically advantageous to the State and the general public welfare and will contribute to the economic growth of the State. Our particular concern, here, today, involves the industrial revenue bonding, the possible revenue bonding, of freight handling facilities at the Fairbanks airport. As part of our regional economic development plan, we are trying to coordinate construction of cargo facilities to be shared by all air cargo carriers, to facilitate air cargo movement into and out of Fairbanks. Recently, Wien Air Alaska has temporarily converted their large hangar here to a freight handling facility, which they share with Pan American on a lease basis. Alaska Airlines, meanwhile, feels a need for a larger freight facility than that which they currently have, and in the near future have started planning toward some sort of construction within in the, at least the next year. We feel it would be very unfortunate if Wien and Pan American did not participate with Alaska, and us, or some other third party, in development of an all-carrier cargo facility in the Fairbanks area. There are several reasons for this. The converted hangar, even though perhaps a major improvement in freight handling, cannot be considered anything other than a temporary solution to Wien and Pan American's problems. And therefore, should not stand in the way of a permanent facility for freight handling. Meanwhile, the Wien move has tied up the only hangar in Fairbanks that is really suitable for maintenance of modern, large aircraft. If, if Alaska Airlines finds it necessary to solve their freight handling problems independently, Fairbanks will lose its opportunity for an all carrier cargo facility for an awfully long time to come.

We recognize that Wien owns its hangar, although not the land it sits on, and can probably obtain State permission to use that space for many air transport related activities, recognizing this, however, we do not know how the conversion of the Wien hangar was funded or if future funding through this bonding Authority will be necessary. We would like to encourage the Legislature to insist that participation, that the, that participation requirements for use of the bonding program require that monies derived through this participation are indeed used for long term improvements. Further, we would hope that the audit would, pursuant to the enabling legislation, determine whether capital improvements funded by the program were clearly recognized by the communities involved, as to be in the interest of the public welfare. In this case, we have identified and for some time,

that their cargo facilities, in fact I'd like to emphasize that the multi-carrier cargo facilities for the Fairbanks airport has been in our economic development plan for several years. It was placed there by our board of directors, who represent the cities, towns and villages of interior Alaska. These communities have voluntarily joined our association and for this reason we feel that our economic development plan, and in particular, this air cargo facility, represent the wishes of the people. Thank you.

Senator Hohman: Questions of Mr. Stringer? Further comments, Mr. Stringer? Thank you. Well, I guess we take about four and a half or five hours of tape back to Labor and Managment Committee, along with some notes, and present them to the Chairman, Senator Ferguson. I thank you all for coming. You're adjourned.

Senate Labor and Management Committee Minutes

February 1, 1978

Members present, Senator Ferguson, Senator Ray and Senator Rodey

Agenda:

SCR 73 Relating to the Alaska Industrial Development Authority

SCR 73 Tape log 0000 - 0060

Senator Ray moved to record the (S) L & M Committee's findings of facts along with the SCR 73 in the Senate Journal - Unanimous

Senator Rodey moved to vote the SCR 73 out of committee, with individual recommendations.

Senator Ray objected for the record.

Senate Labor and Management Committee Minutes

February 2, 1978

Members present: Senator Ferguson and Senator Ray

Agenda:

HB 613 An Act making a supplemental appropriations to the Department of Labor, workmen's compensation and local hire; and providing for an effective date.

HB 544 An Act relating to appeals under the law requiring local hire under state leases.

HB 613 Tape log 0100 - 0200

Testimony:

Judy Dubois, Department of Labor 0115 - 0154

Dale Cheek, Department of Labor 0154 - 0200

CSHB 613 held over for information concerning question of 1977  
Free Conference Committee deletion of appropriation for five positions  
for Department of Labor

HB 544 Tape log 0200 - 0300

Testimony:

Rep. Fred Brown, Sponsor 0226 - 0272

Eliminates superior court mandatory rehearing of cases

Dale Cheek, Department of Labor 0272 - 0300

Hearings are held under Administrative Procedures Act.

Senate Labor and Management Committee Minutes

February 16, 1978

Members present: Senator Ferguson, Senator Ray, Senator Rodey and Senator Colletta

Agenda:

SB 329 An Act relating to unlawful employment practices.

SB 329 Tape log 0300 - 0650 tape #4

Testimony:

John Andrew, Western Regional Council for J.C. Penny Co.

Mr. Niel Thomas, Executive Director, Alaska Human Rights Commission

Complete transcript of meeting is attached.

Senate Labor & Management Committee Hearing 2/16/78

Present: Senators Ferguson, Chairman; Senator Ray,  
Senator Rodey and Senator Colletta

Re: SB 329, "An Act relating to unlawful employment practices."

Prepared by: Senate Labor & Management Committee Staff

The meeting opened with Senator Colletta proposing the following committee substitute for SB 329:

\* Section 1. AS 18.80.220 is amended by adding a new subsection to read:

(c) An act or practice otherwise prohibited by secs. 200-295 of this chapter is not unlawful if that act or practice is subject to and in compliance with the federal Age Discrimination In Employment Act, 29 U.S.C. secs. 621-634, and the rules and regulations adopted by the United States Secretary of Labor under the Act, as that Act and the rules and regulations are interpreted by federal administrative agencies or the federal courts.

Mr. John Andrew, Western Regional Council for J.C. Penny Co. testified:

The original SB 329 addressed a problem that we and a large number of other employers in Alaska have, which was brought home by the Simpson decision of the U.S. District Court late in 1976. It held that under the Alaska Age Discrimination Statute there is no ceiling or cap on retirement. Our company has mandatory retirement policies written into our pension programs and system. There is a problem especially in situations where it frequently happens, that employees are transferred between several different states during the course of their careers. Some uniformity with regards to the pension provisions is very important for administration and a clear understanding.

SB 329, as originally introduced by Senator Colletta, addressed that problem by picking up language which is in effect in the great majority of the states, which provides that bonafide retirement pension plans would not exercise mandatory retirement policies pursuant to such retirement plans and would not be in violation of the federal Age Discrimination Act. Since its introduction last year there has been a great deal of activity in this area, part in the U.S. Congress and it has become clear that sometime during the current session Congress will pass legislation in this area changing the present exemption for pension programs and raising the ceiling for mandatory retirement to at least age 70.

CSSB 329 takes up the Congressional development and simply provides that whatever the Congress does in this area and the rules the Section of Labor would issue pursuant to that shall govern uniformly so that we do not have this problem of different state ceilings or no ceilings state to state and could operate our pension plans uniformly on a national basis. It applies only to companies that would be covered by the Federal legislation, that is national companies having employees here and elsewhere.

Mr. Niel Thomas, Executive Director, Alaska Human Rights Commission testified:

I would like to tell a story that I think explains what is happening in this area. There was a fellow who worked for an insurance company in Anchorage by the name of Jack Simpson. Simpson had a long and successful history with working for the company and the company believed that he was fully capable of working past the age of 65 and continuing in his duties. Now, this feeling came from the company and not just from Jack Simpson saying that he could work past the age of 65 and the company saying he was too old and had lost his faculties, but the company found that it was absolutely essential to fire this fellow. It was not because he had lost his faculties or for any other reason then the fact that there was a company policy that had been on the books for a long time and that there was a letter to that effect that he had reached the age of mandatory retirement. The company said, regretfully, that they would have to let him go because that is what it said in the rule book.

Simpson sued charging age discrimination. He sued under the Alaska State Discrimination Law. The theory behind this lawsuit was that Alaska law prohibits the discrimination based on age with only a limited number of exceptions. An exception exists for other statutes which provide for age limitations such as the age of 18 to be a trooper or retirement of judges at age 70 or that type of thing. But that is about all the age statutes reach in the state.

The argument came back, the lawsuit was brought under State law and was brought in State Court and was removed to Federal Court with appendant jurisdiction action and with an out-of-state defendant was therefore entitled to have the case tried in Federal Court. The case came before the Federal District Court here.

The argument in the Federal Court was that the word "age" in federal law was defined in such a way that any of you when you reach age 65 will lose your federal rights, not to be discriminated against because of age - cuts off at 65 - so the federal law is very narrow. You are protected by federal law only when you reach age 40 and you lose all of your federal rights at age 65.

Now, as I explained earlier, the state law which you adopted many years ago is broader than that. The argument in Federal Court here was that the state law went beyond that. Providence Washington Insurance Company comes in and says "yes, but, the State Legislature couldn't possibly have meant to do something beyond what the federal law provides and it had no right to do so in the first place."

Well, nonsense, says the Federal Court. The decision of Simpson vs Providence Washington Insurance Group, which has attracted alot of attention around the State, was that when you adopted the provisions against age discrimination you chose to go into an area which the federal government decided not to go, and as you just heard, is now apparently changing its mind and making some further advances.

I think this society is beginning to recognize that not everybody who reaches age 65 automatically becomes incompetent, loses all of his faculties and is unable to do anything whatsoever after that and must automatically be fired.

So even the Congress is rethinking its position at this point. So has the Californiz Legislature which just this past term is broadening its age discrimination coverage much in the way that you have done.

What you have before you, and I think we have to recognize it for what it is, is a conscious attempt by the regulated sector to undo the Simpson decision. Simpson is on appeal in the Ninth Circuit Court of Appeals now. The Ninth Circuit will hear basically the same argument that was heard here, namely that you as the Alaska Legislature had no right to give people, older workers, coverage under age discrimination legislation which does not exist under federal law.

We are confident, and we'll be making the argument under Ninth Circuit, that you certainly did have that right, that what you meant to do was to pick up protection for people who lose it under federal law. This bill, and I think either wording tends to have the same thrust, is designed to undo that decision even before the courts rule. I think that is a great mistake and we recommend against it.

Senator Ferguson: Are there any questions?

Senator Bill Ray: The court determined that what the Alaska Legislature meant when they passed the law on age was that we weren't restricting age limits on employment?

Niel Thomas: Basically an open-ended statute, Senator.

Senator Ray: I think that is probably correct. And what the amendment would do would tie us into the federal law, it would limit our law that is in effect?

Niel Thomas: That is correct. The basic principle now is that any of you who reach age 65 lose all of your federal rights but you still have your rights under state law. This bill would take all of your rights away.

Senator Ray to Senator Colletta: Is that correct?

Senator Colletta: No, I don't believe that is the intent at all.

Senator Ray: They do put up a fairly good argument. I don't think it is the intent of Alaska to limit the age of employment. Does the state law or personnel rules have any restrictions on state hiring?

Niel Thomas: No.

Senator Ray: Then, you would be changing that and you would limit or curtail Alaska's broad effect now by letting people work as long as they can. You would be eliminating it to what the present Federal statutes say or what any increase or decrease in Federal statutes?

Senator Colletta: No, what I think in a generalization of what you are saying could in fact be true, but, in realism that isn't what they are saying at all Niel, I don't think it's the intent to deny anybody the right to work as it is the intent to honor a commitment that is preset years in advance.

Niel Thomas: But Senator, that is specifically what the Simpson decision addresses, exactly that problem.

Senator Ferguson: Mr. Andrew, would you like to come forward with any rebuttal? Do you agree with the statements that were made?

Mr. John Andrew: Yes, to some extent I certainly agree that the Simpson decision raises very serious problems for us as employers, for any multi-state employer. If we are going to have a situation where a man in New York is subject to a law where he must retire at age 65 and in California, working for the same employer, he can work until age 70, and in Alaska he can work until he drops dead at 88, it becomes just about virtually impossible to draft and to administer pension plans. When people go to work they know this, it's spelled out what the company's retirement policies are. And if we cannot administer those uniformly across the country we've got an administrative nightmare and something also which is subject to a great deal of potential abuse. You could take your man in Alaska, say our store manager, and he gets to be 65, we transfer him to Nevada and he is out. You know it's a can of worms.

Senator Ray: I don't understand that. I don't know why you can't write a retirement policy or system that says at the age of 65 you can retire or don't have to?

- Niel Thomas: What the employer is trying to do is make things simple. I don't think anything in the law prohibits an employer from saying to someone, I don't care if it's because of your age or whatever, you're just not cutting it anymore and we're going to have to let you go, and you have all your rights under your retirement program. That is not what the law is speaking to.
- Senator Ray: The state retirement policy states you can have early retirement at age 50 and yet we have people working who are much older than that. In other words, it's at their benefit - well, it doesn't seem to bring a hardship down there.
- John Andrew: Our basic concern Senator is with the question of uniformity and not with a particular age.
- Senator Ray: We're interested about the people of Alaska. I'm reading here in the Discriminatory Practices and it tells all about it here, it even has a footnote about Simpson. But it doesn't say anything about what we're supposed to do, it says "It's not the purpose of this chapter to supersede laws pertaining to child labor, the age of majority or other age of restrictions or requirements."
- Senator Colletta: The bill would put us in conformity with federal statutes.
- Senator Ray: But, Mike, who wants to do that?
- Niel Thomas: The argument about the need for uniformity or regulation, the court addressed that, specifically in the Simpson case, and said that age is not the only subject under which business has to deal with different laws in different states. It cites in the footnote, and it didn't pick them all up, because there is actually about a dozen states that have legislation pretty much like Alaska. But the Court sort of sniffs at the argument that this is somehow a matter of law and obligation on you as legislators to have the same law as everyother state, that is just not true, and businesses are well accustomed to dealing in one state or another with different tax rates and different bodies of law that require people, businesses to conduct themselves differently in different states.
- Senator Ray: I sympathize with what you want to do, but I don't like it. J.C. Penny Company would be very happy but I know alot of individuals who are very gainfully employed and they are 70 years old or 68 and alot of it is part-time, some of it is full-time, but if you pass this law you are going to knock those people out of a job.

- Senator Colletta: Not necessarily so, Bill, I think what they are saying is in essence what you are doing is that you can't plan anything for the future with any of your employees.
- Senator Ray: Well, we do that with our own retirement system. It's there and the guy knows when he can retire and when he cannot.
- Senator Colletta: That is right, we made a provision for him to get out early.
- John Andrew: But our problem, Senator, is this. As a multi-state employer we cannot do that under the present situation because we don't know where he is going to end up. With the federal legislation it is obvious we'll raise the age to at least 70. It has passed both Houses of the Congress, it is just a matter of ironing out the details in conference this spring, probably, and the President said he will sign it, so we'll at least go to 70. But, you know the question is exactly what Senator Colletta said, planning, certainty, actuarial problems. It is impossible to calculate the cost benefits which would be required if we have different retirement ages in different states. The Congress has given a great deal of concern and consideration to this issue in the past year.
- Senator Rodey: I'm sympathetic with your problem and I understand the actuarial difficulties you have and the policy difficulties you have but it seems that one of the horns with the dilemma to do this would in effect change state policy and I have a relatively good idea of what might happen should it go to the floor of the Senate. I think that there would be some very serious reservations about changing our present policy, which is one of an open-ended policy to a close-ended policy of 65 or 70, whatever the case might be. While I think all of us are sympathetic with your problems and would like to help out, I think it is a situation in which the legislature would probably find itself extremely reluctant to act because in fact it would contravene an earlier policy decision.
- Senator Ray: I would move and ask unanimous consent that we move and adopt the committee substitute.
- Senator Ferguson: Is there objection? (NO)
- Senator Ray: Then, I would move that we put out the bill with individual recommendations. I will put do not pass on it.
- Senator Ferguson: Is there objection? With no objection, it is so ordered.

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CSSB 329 was signed out of the Senate Labor & Management Committee with the following recommendations:

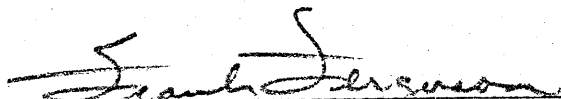
Senator Ferguson: No Recommendation

Senator Colletta: Do Pass

Senator Ray: Do Not Pass

Senator Rodey: Do Not Pass

I certify that this is a true and correct copy of the original tape of the Senate Labor & Management Committee meeting of 2/16/78.



Senator Frank R. Ferguson  
Chairman, Senate Labor &  
Management Committee

Dated March 7, 1978

Senate Labor and Management Committee Minutes

April 6, 1978

Members present: Senator Ferguson and Senator Ray

Agenda:

HB 619 An Act making a supplemental appropriation to the Department of Labor, vocational rehabilitation and Pump Station #8, and providing for an effective date.

SB 579 An Act providing an exemption from the minimum wage for individuals employed by a nonprofit organization operating rehabilitation programs; and providing for an effective date.

HB 619 Tape log Tape #4 0650 - 0700

Testimony:

Tom Haas, Department of Labor, finance officer 0657 - 0698

Judy Dubois, Department of Labor 0698 - 0700

HB 579 Tape log Tape #4 0700 - 0800

Testimony:

Alphis Morris and Theresa Stalmen from Family House Anchorage 0700 - 0782

Family House is a nonprofit organization providing room and board and should be exempt but does not qualify for an exemption because the program is not strictly voluntary. If FH has to pay minimum wage and thereby carry a payroll they will lose 25% of their income to taxes, putting a hardship on the program.

Dale Cheek, Department of Labor, financial officer 0782 - 0800

Cannot grant exemption because of uproar from general public and unions.

HB 619 was signed out of committee

Senate Labor and Management Committee Minutes

April 26, 1978

Members present: Senator Ferguson, Senator Colletta and Senator Ray

Agenda:

SB 548 An Act relating to waiter and waitress permits.

SB 576 An Act making a special appropriation to the Office of the Governor; and providing for an effective date.

SB 548 Tape log Tape #4 0820 - 1205

Testimony:

John Hanlan, Sec. Treas. and Business Agent for Culinary and Bartenders  
Local #60 Juneau 0840 - 0980

Thinks eight hour program is a problem because waitresses cannot take the time off for school. The budget for the program is \$311,000 which he suggests is expensive for the taxpayers. Suggests bill should be dropped. Bar owners claim they cannot be responsible for actions of all employees at all time. Bartenders claim they then cannot watch first as they are busy mixing drinks.

Jody Gross, J-D High School student 0980 - 1205

A school project showed that many employees and managers were unaware of liquor laws. As minors they were served in bars.

SB 576 Tape log Tape #4 1205 - 1210

SB 576 passed out of committee unanimously.

Senate Labor and Management Committee Minutes

May 10, 1978

Members present: Senator Ferguson, Senator Ray and Senator Colletta

Agenda:

SB 373 An Act relating to public information regarding collective bargaining by public employees.

SB 373 Tape log Tape #5 0001 - 0083

Testimony:

Senator Orsini 0001 - 0065

Senator Colletta moved SB 373 out of committee with individual recommendations. No objections.

Senate Labor and Management Committee Minutes

May 12, 1978

Members present: Senator Ferguson, Senator Ray and Senator Colletta

Agenda:

SB 606 An Act relating to the requirements for the issuance of teacher certificates.

SB 602 An Act relating to train crews.

SB 548 An Act relating to waiter and waitress permits.

SB 606 Tape log Tape #5 0085 - 0100

Senator Ferguson stated that this was a HESS bill and moved it out of committee and to (S)HESS

SB 548 Tape log Tape #5 0100 - 0370

Testimony:

Murry Dustin, Manager of Breakwater restaurant and lounge  
1711 Glacier Ave., Juneau 0150 - 0350  
Eight hour course is unworkable, present law regarding soliciting of drinks is ridiculous.

SB 548 passed out of committee with three recommendations for CS.

SB 602 Tape log Tape #5 0375 - 1131

Testimony:

Ed Orbeck, Commissioner of Labor 0379 - 0438

W.A. Hisman, Manager of White Pass and Yukon Railroad. Believes crew size should be determined by collective bargaining, not by state law.  
0438 - 0544

Henry Mayer, Conductor on White Pass and Yukon Railroad. 0544 - 0660  
Need a full crew due to hazardous route.

Steve Hites, Brakeman on White Pass and Yukon Railroad and Legislative representative of United Transportation Union #1787 Skagway 0660 - 0843

Donald Berry, Assistant Superintendent for White Pass and Yukon Railroad  
0843 - 1071

Steve Hites 1071 - 1131

Senator Colletta moved SB 602 out of committee with individual recommendations. Two do not pass, one no recommendation.

Please indicate which bill you plan to testify on by entering your name in blank after bill number:

SB 548

Murray Dastin

SB 602

JAMES D. PIERCE

✓ H. A. Nimsen

DONALD BARRY

✓ Ed Orbeck

Henry M. Mayer

✓ Laurie Mayer

✓ Steve S. Hites

SB 606