March 25, 1968
7:40 p.m.

The chairman called the meeting to order for the purpose of hearing testimony on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 672 (to provide for state contribution and action to encourage and facilitate final settlement of Alaska native land claims by the federal government). All members of the committee were present except Mr. Miller, who was excused. Also present for the purpose of testifying were Mr. Barry Jackson, Mr. Don Wright, Mr. Roger Connor and Attorney General Edgar Paul Boyko. Many legislators and interested members of the press and public were also in attendance.

MR. STRANDBERG: I would like to go back to the interpretation of what constitutes a royalty. What page is that on?

MR. JACKSON: That would be on page 7 and 8.

MR. STRANDBERG: Let's go down to Royalty Sources. In that section (page 8, line 25) it says, "The right to such proceeds does not apply, etc." Barry, I would like to have your interpretation of that section. In interpreting this section do you mean that anything that is not included in the rights to such proceeds does not apply to the following, and that everything else applies?

MR. JACKSON: No. It first must be applicable under the language before that sentence. These are not mutually exclusive clauses either. The language which begins on line 25 excludes certain things, but it is more by way of explanation that it is by way of limitation. In short, just because it is not excluded

under the language from line 25 on does not mean that it is included. To be included, it must be included in the first sentence.

MR. STRANDBERG: What is the land transferred by 6(m) of the Statehood Act?

MR. RAY: Point of inquiry, Mr. Chairman. Where is this language located?

MR. STRANDBERG: Page 8, Sec. 38.30.160.

MR. JACKSON: That is the second source which is listed here, tidelands and submerged lands owned by the state under the grant contained in sec. 6(m) of the Alaska Statehood Act. These are the tidelands and submerged lands out to the three mile limit which under the Statehood Act the state acquired fee title to. It includes the Cook Inlet for example.

MR. STRANDBERG: What about the rest of the tidelands.

MR. JACKSON: All tidelands and submerged lands, I believe, are covered by sec. 6(m).

MR. STRANDBERG: Is it your interpretation then that this takes care of the Cook Inlet Basin?

MR. JACKSON: Yes, sir.

MR. STRANDBERG: What about the lands in the moose range?

MR. JACKSON: The lands in the moose range would not have been conveyed by sec. 6(m) since they are not submerged lands. I don't know the status of those lands. They are either one of two things, either we have acquired some type of interest in them or they are in federal ownership.

MR. STRANDBERG: They are still in federal ownership.

MR. JACKSON: If they are still in federal ownership the state is receiving revenues from them under the 90% clause, wherein the state gets 90% of the leasehold revenue, and we are asking for 5% of that under the language of line 25, "all revenues received as the stat's share of revenues from public lands under sec. 28 of the Alaska Statehood Act".

MR. STRANDBERG: In other words, you are asking for 5% of the royalties from the Soldotna and Swanson River unit.

MR. JACKSON: Yes, sir. Not 5% of the gross royalties, only 5% of what the state receives.

MR. STRANDBERG: Are you sure that under sec. 6(m) you are not also going to receive--since the tidelands were held in trust for the future state and were not necessarily conveyed by the Statehood Act--that you are not also going to receive the royalty off the Cook Inlet Basin?

MR. JACKSON: I do not understand the question, sir.

MR. STRANDBERG: You know that tidelands and submerged lands were transferred under a separate act. The Statehood Act had very little to do with it. The tidelands and submerged lands were held in trust for the future state. The question here is, under the Statehood Act there were certain transfers made. Are you sure that under this bill you wouldn't also be receiving 5% of the submerged lands and tidelands of the state.

MR. JACKSON: It is my understanding we will be receiving 5% of anything the state receives from the tidelands and submerged lands, and it is my understanding this land was transferred to the state by sec. 6(m) of the Alaska Statehood Act.

MR. STRANDBERG: Is that exempt then?

MR. JACKSON: I'd say it is included as a royalty source.

MR. STRANDBERG: What makes you think they can take 5% of the Cook Inlet Basin, from the offshore royalties?

MR. JACKSON: I think we will.

MR. STRANDBERG: It is your intent--you say 5% of all of the royalties off the tidelands and submerged lands in the Cook Inlet Basin?

MR. JACKSON: Yes.

MR. STRANDBERG: That is not the understanding that I had of the bill.

MR. JACKSON: I may be in error then, but that is my understanding of the bill. I will say that at one point the task force excluded the existing leaseholds, so that only new leases would be subject to the 5%, and under that interpretation we would not be receiving 5% off of Cook Inlet, but that is not the way the bill was sent down from the Governor's office.

MR. STRANDBERG: Since it excludes new leaseholds in the Cook Inlet Basin, why should it include the royalties off the Swanson-Soldotna unit?

MR. JACKSON: Again, the same is applicable in the language of this act as it is now before you. Existing leaseholds, existing monetary sources that the state is receiving money from on both the Swanson River unit and the Cook Inlet, would be subject to 5% royalty under this bill. That is a little different from the first source of royalty, which is from future state selected lands.

MR. STRANDBERG: If it is going to be for future selected lands, why shouldn't it be all inclusive. Why should there be anything on Swanson River and the Cook Inlet Basin? Why . . . it not all apply to future revenue?

MR. JACKSON: If you are going to ask that question I would agree that we should apply it to any existing state selections and not just future state selections.

MR. BLODGETT: I have a question, please.

MR. STRANDBERG: This is a House Finance Committee meeting, Senator Blodgett, and we are going to exhaust the questions from the committee, and then we will ask questions from anybody in the audience. Do any other members of the committee have any questions on this?

MR. RAY: Mr. Chairman, as long as there is going to be money collected here and there are going to be administrative costs, paid by the state or are the administrative costs going to be taken out of the Indian land claims source, or what?

MR. JACKSON: As it is here written, it is by annual appropriation of the legislature.

MR. RAY: You mean the legislature is going to pay for the collection of the money to be paid for the royalty fees.

MR. JACKSON: As it is now written, that is how I would interpret it. There has been some suggestion that this administrative cost might be made first charge on the royalty. That was my suggestion.

MR. STRANDBERG: Is it your understanding in your discussions with the administration that they believe that the 5% applies to the Cook Inlet Basin and the Soldotna-Swanson River unit, also.

MR. JACKSON: I cannot answer that question because I have not had such a discussion.

MR. STRANDBERG: Is it your opinion, your impression, the way this bill is written, that it does apply to those royalties?

MR. JACKSON: As it is written it is my impression that it does apply to those revenues which the state is receiving off of those fields.

MR. STRANDBERG: Are there any other questions from any member of the committee. Is there any question on this point for Mr. Jackson from any members of the legislature?

MR. BLODGETT: I have a question, Mr. Chairman. In his interpretation of the continental shelf and the three-mile limit, if the three-mile limit is extended to the 12-mile limit, how will this affect this royalty?

MR. JACKSON: I can only answer by saying that it is my understanding, and I may be in error on this, that at the present time the state owns out to the three-mile limit. If there is an extension under the continental shelf convention, the United States owns the title to the continental shelf out beyond the three-mile limit to the 100 fathom line, to the extent that it can exercise actual jurisdiction even beyond the 100 fathom line. At the present time title to this land is in the United States and not in the State of Alaska. If the United States chooses to extend the three-mile maritime limit to 12 miles, I cannot say what affect it would have. I imagine it would be possible for Congress to transfer title to those lands to the State of Alaska, but I do not know of any such legislation.

MR. BLODGETT: I believe that this is going to be a point which will require some attention. I would like the attorney to make note of this and give it some consideration, because I do feel we will be confronted with this question later if not soon. I have nothing further at this time.

MR. STRANDBERG: Are there any other questions?

MR. RAY: Just as a point of inquiry, is Mr. Boyko going to testify?

MR. STRANDBERG: Yes. I want to ask Barry to go over to page 8, item (2) [line 28], assuming your position has been taken on the basis that "revenue from tidelands and submerged lands which are or have been conveyed to others under AS 38.05.320", that means the tidelands that have been conveyed to cities and others that have preferential rights?

MR. JACKSON: Yes, sir.

MR. STRANDBERG: That's why I am taking the position that this bill does not exempt from royalties the leases in the Cook Inlet Basin, because there was no title conveyed.

MR. JACKSON: Correct.

MR. STRANDBERG: That was my interpretation of it, too, and I am not an attorney, but I am glad you agree with me on it.

MR. JACKSON: It is not solely because of this language. This language was put in to make it crystal clear that the land which was conveyed under preference rights provisions, AS 38.05.320, would be totally exempt from any royalties.

MR. STRANDBERG: In (B) on page 9, "in which the state has granted to third parties a right or interest prior to the effective date of this chapter." What does that include?

MR. JACKSON: Here we are talking about tentatively approved lands, and this subsection (3) may not be necessary, because earlier we have said we are only going to give a royalty interest in monetary revenues received by the state from lands selected hereafter by the state. If they are selected hereafter, obviously

they can't be tentatively approved yet. But if you were to liberalize this and say which are selected heretofore or hereafter selected, then you might be talking about some lands in which the state might have tentative approval, and you come down to (3) on page 9 and it would exclude revenues from tentatively approved lands: (A) which have been tentatively approved for selection by the state, and (B) in which the state has granted to third parties a right or interest prior to the effective date of this chapter. One of the reasons for this is that some people felt that it might. . . I wasn't the author of this and I didn't back it, but it is my understanding this is based on the discovery which has been made on lands which have been tentatively approved to the state and the state has created a third party interest in the crude oil bay field. We are not asking for 5% royalty on those lands, or at least this bill does not provide for it.

MR. STRANDBERG: But you are asking for 5% on the Soldotna and Swanson River unit?

MR. JACKSON: Yes, sir, and if you want to say that this is inconsistent, I'll say, yes, we'd like to have 5% of everything.

MR. STRANDBERG: I don't doubt it at all.

MR. SASSARA: Barry, do you consider that the leasehold interests that the oil companies have on large sections of land that have been withdrawn, would this be considered a third party interest?

MR. JACKSON: That would be a third party interest.

MR. SASSARA: I am thinking about most of the Matanuska Valley. A lot of that has been withdrawn.

MR. JACKSON: Yes, sir.

MR. SASSARA: What about the mining interests we talked about earlier, what is your interpretation of those lands which are tentatively approved?

MR. JACKSON: If there is a mining claim on land which has been tentatively approved, I would be rather surprised if the state has tentative approval to any land which is a mining claim, but if there is it might be a third party interest and any monies coming into the state would not be subject to royalty under the clause at the top of page 9.

MR. STRANDBERG: Getting back to page 8, [line 26] (1) "revenues from lands the fee simple title to which has been conveyed by the state to other persons before the effective date of this chapter". Mining claims are not transferred in fee simple.

MR. JACKSON: Correct.

MR. STRANDBERG: Would your interpretation be that you would receive the royalty off of any mining claims if they hadn't gone to patent?

MR. JACKSON: This would depend upon whether it is a mining claim under state law which is created after the effective date of this act. If it is created after the effective date of this act, then yes. If the state gets any revenue off of it we get 5%.

MR. STRANDBERG: What about the federal lands--mining claims which have not gone to patent? What's your interpretation of that? We do not get a fee simple title.

MR. JACKSON: Well, the state does not get any revenue either to the best of my knowledge.

MR. STRANDBERG: Yes, but you do. You receive 5% of the federal.

MR. JACKSON: Oh, no. We are only asking for 5% of what the state would receive. We are not asking for a gross royalty. We are only asking for 5% of whatever monies the state might receive.

MR. SASSARA: That's covered on line 18, page 8, "The proceeds subject to this chapter are all monetary revenues received by the state, after the effective date of this chapter."

MR. STRANDBERG: The state does get a royalty off mining claims. The return is based on the net. There is a severance tax on mining claims based on the net.

MR. JACKSON: That is a severance tax, and it is my interpretation that we do not have any interest in a severance tax because that is a tax. The revenue here is intended to mean royalty revenues received by the state.

MR. RAY: What is your legal interpretation, as used in this proposed act, of "royalty" or "share"?

MR. JACKSON: My interpretation is a property interest is being granted in land measured by the royalties or proceeds--non-tax proceeds--which the state is receiving.

MR. SASSARA: That is not what this bill says. This bill says "the proceeds subject to this chapter are all monetary revenues received by the state. . .".

MR. JACKSON: ". . .from the sale, lease, exchange, or other disposal of lands which are selected hereafter by the state: . . and of tidelands and submerged lands. . . as well as all revenues received as the state's share of revenues from public lands under sec. 28 (that's the 90% clause) of the Alaska Statehood Act." A lot of these are tax revenues.

MR. SASSARA: They are also not oil royalty revenues.

MR. JACKSON: I think they are. Any revenues from lease of land.

MR. SASSARA: The lease of land is one thing.

MR. JACKSON: The lease provides for payment of royalty as part of the rental.

MR. RAY: Is the royalty a grant from the state or is it a tax on certain leaseholds?

MR. JACKSON: It is not a tax.

MR. RAY: Is it a grant? What do you call it?

MR. JACKSON: Do you mean from the state to the natives? I call it a royalty or share of the proceeds.

MR. RAY: Is the royalty or share of proceeds considered as a grant from the state? We could have many connotations of royalty, it means a tax on certain severance taxes, etc., which is included in this act.

MR. JACKSON: It is not a severance tax.

MR. RAY: What do you call a royalty? Is that a grant from the state?

MR. JACKSON: It is a grant of a property interest from the state.

MR. SASSARA: What is meant by lease? A lease will include the oil royalties, does it also include coal, etc.

MR. JACKSON: Yes, phosphate, oil, shale, coal.

MR. SASSARA: Or any other monies received by virtue of the lease, including bonus monies?

MR. JACKSON: Yes, including bonus monies.

MR. RAY: Not being an attorney this is a little bit confusing to me. We are talking about monies, talking about royalties, talking

about leaseholdings, grants, etc. How do you connotate this to the overall picture. Is this a leaseholders grant from the state to the natives? You said it wasn't a tax, but from the state is it a grant from portions of the state that are under a leaseholders arrangement. Means the natives are leaseholders and the state is the . . . I don't understand it.

MR. JACKSON: Let's take a simple case, and say you and I have a dispute over a piece of land here in Juneau. We go to court about it, as to who owns it. You and I settle, and I say I will settle with you, Bill, if you give me 1/6th of all the revenue you ever get off this piece of ground. This is creating a property interest by agreement between the parties. It is a property interest. We call it a royalty.

MR. RAY: With all due deference, in layman's language it sounds like sharecropping.

MR. JACKSON: No, because I would not be doing anything on the property itself, and nor would you necessarily.

MR. RAY: But if you are asking for a percentage of the money from me as your share of the monetary gains, what do you call that?

MR. JACKSON: We are just one of two owners of the property. You are basically the fee owner, but in adjusting our legal rights you agreed to give me a royalty interest in the property.

MR. SASSARA: Getting back to the constitution, Barry, these monies would not be subject to the constitutional provisions of the dedication of funds?

MR. JACKSON: The constitution says that no tax or licensed proceed can be dedicated. These monies that are coming in are neither a tax nor a licenses proceed.

MR. SASSARA: What are license proceeds?

MR. JACKSON: Liquor licenses, for example, gross business license, etc.

MR. STRANDBERG: Do you think that was the intent of the constitution, not to dedicate any funds.

MR. JACKSON: I am sorry, sir, I have not read the dialouge. . .

MR. STRANDBERG: Don't you think it was the intent of the constitution not to dedicate any funds?

MR. JACKSON: I can't answer that. I will say that in my personal opinion I think it is a bad idea to dedicate revenue sources, unless, of course, someone has a legal right to it.

MR. RAY: Are these royalties or share proceeds taxable by the state as income?

MR. JACKSON: That is our intent.

MR. SASSARA: [Asked Mr. Jackson to distinguish between lease and license.]

MR. JACKSON: A license is used legally in two ways. One is to come on someone else's land and use it, but you can terminate that license at any time. It is not a property right in the land. Licenses of this fashion are very common when you let people walk across your land. Another type of license is a license which is awarded by a government to engage in a business or do something which the government says you can do only by permission of the government and when you get this permission it is not a property right exactly, but it can come pretty close to a property right, as a liquor license becomes close to a property right. Leases are not licenses in either sense.

Mr. SASSARA: Is it your opinion that no monies derived from the word lease would be considered to be licenses.

MR. JACKSON: Subject to the dedication clause of the constitution, that is correct.

MR. SASSARA: In my opinion this one of the places where they were not careful in writing it. I am sure they didn't mean to restrict only the dedication of state taxes and licenses.

MR. JACKSON: Let me talk about the public policy of dedication. We do not want a pressure group to come to the legislature and build in a self-perpetuating funding provision for a public purpose program, regardless of how beneficial it may be. We are here dealing with the disposition for the settlement of a law suit between two groups, one of which is the state, each of which claim to have property interest in land. The best way to do this is for each party to give a bit. The natives are prepared to let the state make the selection of the native claim lands, provided, among other things, that the state is willing to give the natives a royalty interest on whatever money the state makes off of it. I submit to you that that does not violate the state constitution, neither the letter of the constitution, nor the intent which you have raised, the dedication of public funds.

MR. SASSARA: I only raised it because there is a distinct possibility that a suit could be filed on the basis of this. Now, we are talking about two different things. We are talking about the land freeze lifted and making it available to the state, you will be taking your royalties from lands that have been tentatively approved for state selection.

MR. JACKSON: Under this bill we are not. Under this bill we would not get any revenues from land tentatively approved for the state. I'd like to have it, but that is not what this bill says.

MR. RAY: What you are saying, Barry, is that the money will be paid into the state treasury and a native commission or their representatives can draw on the general fund account in the amount as set down within this law--75%, 5%, ... whatever it comes down to.

MR. JACKSON: As the money comes in it becomes a trust fund and then any legislature will appropriate it out of the state treasury to the various corporations that have shares in it.

MR. RAY: What if the legislature changes the law?

MR. JACKSON: They cannot.

MR. RAY: You know they can.

MR. JACKSON: They could because it is always possible for a public purpose to take property from somebody, but they have to pay them off. If a future legislature decides to terminate these royalties, they can do so, but only by paying a fair value of those royalties.

MR. STRANDBERG: Here is a critical point as far as I am concerned. On page 8 it says, [line 25] "The right to such proceeds does not apply to (1) revenues from lands the fee simple title to which has been conveyed by the state to other persons before the effective date of this chapter". Now what lands are included in that.

MR. JACKSON: It includes lands which the state may have acquired through the selection process and has acquired a patent to, and then in turn sold to other parties.

MR. STRANDBERG: It only applies to land to which a patent has been conveyed. Is that correct?

MR. JACKSON: That is right. I want to make this absolutely clear that this is not a straight corollary of the first clause. In other words, it is not the opposite of the first clause, because

in the first clause we said we are only going to give monetary revenues after the effective date of this chapter from sale, etc. from lands selected hereafter. Any lands which have been heretofore selected are already automatically excluded as a royalty.

MR. STRANDBERG: I am going to ask you some questions, Barry, and I ask you not to qualify them, but just to answer the questions. Now, what does (2) mean? The "revenue of tidelands and submerged lands which are or have been conveyed to others under AS 38.05.320". Now what does that mean? [Line 28, page 8]

MR. JACKSON: That means that any lands which have been conveyed by the state, tidelands, to occupants under the preference right provisions under sec. 320, that money revenued are not subject to royalties. Not only that, but if there are any future conveyances under the provisions of that section.

MR. STRANDBERG: What does conveyance mean under the provisions of that section?

MR. JACKSON: It will include a patent, and it will also include a lease, if there are provisions for lease under that section.

MR. STRANDBERG: Would it include a royalty interest? Would it include land which has been leased with a royalty provision?

MR. JACKSON: I think it would include lands which are leased but I am not sure whether you can lease a land under section 320.

MR. STRANDBERG: I don't think you can under that section. That's the preference right section. I don't think it would include oil leases or anything like that.

MR. JACKSON: Oh, no. It does not.

MR. STRANDBERG: "(3) revenues from lands which (A) have been temporarily"

MR. JACKSON: That should be tentatively.

MR. STRANDBERG: "tentatively approved by the United States Government for selection by the state". What is included in that?

MR. JACKSON: These are lands which the state has selected and which the United States has tentatively approved, and under the Statehood Act the State of Alaska can then deal with these lands as if they are the owner. The only remaining thing to be done is they must be surveyed and they haven't been surveyed yet. Meanwhile the state is permitted to manage the land.

MR. SASSARA: Can we pass title on that?

MR. JACKSON: As a practical matter I think you can.

MR. STRANDBERG: "and (B) in which the state has granted to third parties a right or interest prior to the effective date of this chapter." [line 2, page 9]. What constitutes a right or interest under that section?

MR. JACKSON: An option to purchase, a grazing lease, any other kind of a lease, a contract of sale.

MR. STRANDBERG: But not an oil lease?

MR. JACKSON: An oil lease

MR. SASSARA: Any leasehold interest. This is where a mining claim comes in. What do we do on a mining claim.

MR. JACKSON: Here we are talking only about land which the state is acquiring through the selection process.

MR. STRANDBERG: I agree with you. I agree with you 100%. Now I would like to go back and start out at the top of this royalty section. [page 8, line 17] "The proceeds subject to this chapter are all monetary revenues received by the state, after the effective date of this chapter, from the sale, lease, exchange, or

other disposal of lands which are selected hereafter by the state under sec. 6(a) and (b) of the Alaska Statehood Act (72 Stat. 339), as amended, and of tidelands and submerged lands owned by the state under the grant contained in sec. 6(m) of the Alaska Statehood Act". Barry, is it your impression that Alaska got its title to submerged land under 6(m)? What would be the effect if they didn't get it under 6(m)?

MR. JACKSON: Then I think we ought to change the bill. The intent here was to cover the tidelands and the submerged lands.

MR. STRANDBERG: What would be the effect on the bill if 6(m) is not correct and that the tidelands and submerged lands having been held in trust for the future state were automatically conveyed but not necessarily conveyed under 6(m)? What would be the effect of this chapter?

MR. JACKSON: I can't answer that without looking at the legal language involved, both the earlier statutory language and 6(m). It might be that it would still be covered, but I am not certain.

MR. STRANDBERG: Is there any question about the provision about whether tide and submerged lands were held in trust for the future state and then the fact is that under the Act of 1953, is it true that some of the lands were conveyed to the territory?

MR. JACKSON: I do not know.

MR. STRANDBERG: What would be the effect on the revenue if this were correct, if it was not conveyed under 6(m)? Barry, what I am talking about is where you say that--you list them here, and then you say the following are excluded, we assume that the rest are included. Isn't that correct?

MR. JACKSON: No, sir. Because they first have to be included

under the first three royalties sources. Then if there is any doubt there are certain exclusions made. Those are not the only possible exclusions. It may not be well drafted, but the second sentence is not the exact corollary or opposite of the first sentence.

MR. STRANDBERG: You say that "right to such proceeds does not apply to" the following, how do you make exceptions, and you say "tidelands and submerged lands owned by the state under the grant contained in sec. 6(m) of the Alaska Statehood Act" [line 22, page 8]. Well actually the transfer of the tides and submerged lands was automatic, wasn't it. It was in trust for the future state. It wasn't necessarily conveyed under 6(m).

MR. JACKSON: I can't answer that. It was my understanding they were transferred under 6(m). It was based upon my examination of 6(m) that I wrote this particular clause. It was my intention to include all tidelands and submerged lands, and if the language does not do it then it should be revised. I wrote this particular language of this section.

MR. STRANDBERG: Are there any other questions for Mr. Jackson?

SENATOR BLODGETT: On page 9, line 1, Sec. 3, "revenued from lands which (A) have been tentatively approved by the United States government for selection by the state". Would this include revenues from sand and gravel sales.

MR. JACKSON: Yes, if it is from sand and gravel sales on lands which have been tentatively approved for selection by the state, and if the contract for the sale of sand and gravel was entered into before the effective date of this bill.

SEN. BLODGETT: How about after the date of the bill?

MR. JACKSON: Then it is subject to the royalties.

SEN. BLODGETT: May or shall?

MR. JACKSON: It will be, but again, because of the way the first sentence is written, only if that particular land is selected by the state after the effective date of this act. If it is selected by the state before the effective date of this act it would never be subject to royalties.

SEN. BLODGETT: Here we run into a problem, Mr. Chairman. All of the tidelands belong to the state, is this correct. A very substantial quantity of the sand and gravel marketed in the state come from tidelands. It appears to me then that our people would be denied a royalty if sand and gravel is marketed.

MR. JACKSON: Not if it is from tideland, because the clause which begins on page 9, line 1, is an exclusion only from lands which are selected under the selection process. It is not an exclusion applicable to tidelands.

SEN. BLODGETT: On the uplands contiguous to tidelands involved in sand and gravel lease or sale, how would this be affected?

MR. SASSARA: It would depend on whether or not they are selected. The state has the title to the submerged lands, but we don't necessarily have title to the adjacent shore line. We may or may not have title to that land. If we don't, I think there is an interest. If we have tentative approval it depends on the date of that tentative approval and it depends on whether or not there is a third party interest.

SEN. BLODGETT: I have one further question in this area. Is that title vested in the state to the pier head line? Where is the title vested in the state in the tidelands, to the pier head line?

MR. JACKSON: To the mean high tide line.

MR. STRANDBERG: It is mean high tide unless there has been a pier head line established. (Mr. Ray read from statute on this point)

SENATOR BLODGETT: Mr. Chairman, one more question. Do you have any feeling about whether or not this should be specified in this bill?

MR. JACKSON: No. The federal act does define the outer continental shelf, but it was not necessary to define that here in the act, and since we are referring to the tidelands and submerged lands under the Alaska Statehood Act, I don't think any further definition is required.

SEN. BLODGETT: One more question, Mr. Chairman. It is inevitable that we will get involved in accretion. How would that be handled. Accretion of alluvial material, sand and gravel.

MR. JACKSON: The answer to that is simply the regular accretian rules. Through accretian land changes its character from tidelands to submerged lands to being uplands, and it changes its character, and this may affect whether or not at some future date there will be royalties payable.

MR. RAY: Senator Blodgett, are you talking about seaward or from seaward.

SEN. BLODGETT: That is the question. It could be either.

MR. STRANDBERG: We are getting down to some pretty fine points here. We will leave that for the future and try to get on with this bill. Do you have anything more, Barry.

MR. JACKSON: No, Mr. Chairman.

MR. STRANDBERG: Next we will hear from the Attorney General.

MR. BOYKO: Mr. Chairman, my voice doesn't work too well tonight. I hope you will bear with me. I do want to compliment you

on the very detailed and perceptive questions you have asked. I would like to have your permission to take you back to more general concepts. I think they are necessary in order to keep this legislation in perspective. First of all, allow me to take you back to about the first of January of 1966. At that time Governor Hickel and one or two volunteer helpers were down here in Juneau trying to make sense of what was going on, and among some of the unsolicited inaugural presents which were dumped on the Governor's lap just about that time or a little prior to that was a decree from the Secretary of the Interior, who is the absentee landlord of 90plus per cent of all of Alaska. This decree, without the color of law, without the pretext of any proper authority, simply declared that henceforth the public land laws, including the provisions of the Alaska Statehood Act, were to be suspended. You must understand that when Alaska attempted to get statehood the strongest arguments from the oponents of statehood, who were vocal and powerful both in Alaska and out, the strongest arguments against statehood was that the state, with its population, with its relatively narrow tax base, with its tremendous expanse, with its tremendous need, it could not economically survive if the territory were to be changed into a state overnight and federal projects made a part of the territorial government were withdrawn, the state would go bankrupt. It would have to undertake tasks which the federal government had provided, supposedly gratuitously. These were very potent arguments, and the only thing, I believe, that convinced the majority of the members of the Congress that this was not a correct argument was that it was decided that since the federal government was the owner of over 90% of the public lands

in Alaska, by granting to the new state a generous portion, approximately 1/3 of that land and giving it a 25 year period in which it would acquire this and obtain the proceeds, and by giving them further, between 90 and 52-1/2 % of the federal revenues from various resources from federal lands that the state would not only be viable but would be a vigorous state.

You must understand that this context, the meaning of an overall land freeze, which totally and completely shut off not only selections by the state, but every other disposal of the public land laws, from homesteads to oil and gas leases, manufacturing, power sites, road right-of-ways, airport sites, and the myriad of different methods of disposal of public lands whereby the territory and for eight years the state had been kept growing. Unlike some of the vast urban areas where the land has become secondary in value, take Manhatten Island, if you compare the value of the real estate without the improvements the land is worth only a fraction. The land is worth only so much because of the improvements on it. In Alaska the situation is reversed. Land in Alaska and what it can do in terms of the resources from it, the uses of it, is so far and away the number one source of wealth that the rest doesn't count. We have no manufacturing to speak of. We have no commerce other than that which evolves around the land. You cut off the flow of the land disposal and you shut off the resources from the land, and you have throttled the economy of this state. The fantastic thing about it is that for the last year and three months so little has been said about it, and worse than that people in Alaska, Alaskans who depend on the Alaska economy for their whole survival and the survival of their families. In fact members of

legislature and candidates for high public office have gone around saying, "the land freeze is good for you", as if a little bomb dropping won't hurt you, the fall out is healthy, it kills the lice or something. This is absolute nonsence. The land freeze is catastrophic. We will be paying for the land freeze, which has been in existence for the past fifteen months, for years to come, not just as a direct loss of revenue, which will be by the end of this year in the millions of dollars which will have to come from some place else, obviously. You gentlemen who are interested in repealing this tax or that tax, bear that in mind, and perhaps the taxes you want to repeal wouldn't have been necessary but for the land freeze. But an intangible impact upon the Alaska economy which is absolutely impossible at this time to measure. You don't have any way of measuring now what this will do to future generations. How many of the oil industry budget dollars we have already lost by virtue of the oil companies changing their planning, which of course is secret, and going into Canada or some other place. I am bringing all this up because we must look at the land freeze as the key theme of this piece of legislation. The question of the land claimed itself is on the federal level and I am not going to talk about this much except to say this, that at the same time that the governor found himself confronted with this illegal land freeze and the disastrous immediate and far more disastrous long range effects, he was also confronted with the fact that over a period of a few months there blossomed forth native claims which had been filed blanketing virtually the entire state, and covering in fact more territory than the state contains because some of them overlap.

The state had existed for eight years and native land use and occupancy had been interferred with for a hundred. But it was in

the last fifteen months that the chickens came suddenly home to roost. I think it must be understood therefore why special credit is due to the governor and his administration for its heroic effort to attempt to solve in the short span of a year and half what the federal government had ignored for a hundred and the state government had ignored for eight years, totally ignored.

MR. STRANDBERG: [To Messrs. Ray and Sassara in answer to their question regarding equal time.] You go ahead, but not until we get through.

MR. BOYKO: Mr. Chairman, I want to say personally I am not making a political speech. I have made it very clear for the last year or more that I have been connected with this problem that it is not a partisan issue. Neither has the governor made it a partisan issue. I am simply stating facts which you have to take into account in evaluating this particular piece of legislation. The administration had several alternatives. One of these alternatives was very strongly advocated right at the beginning of the change of administration, and that was this: there were those who claimed that based upon their interpretation of legal precedent the native claims lacked any foundation in law, and it was therefore advocated that the administration solely ignore and lend no support to the native claims insofar as they were directed against the federal government. Then so far as the state found itself in a bind because of the imposition of the land freeze, they should take the land freeze to court and have it ruled illegal, which in my view was an inevitable result, and an effort in which we are presently engaged, incidentally. The result of this I think would have probably been to doom native land claims in the State of Alaska

for the next ten, fifteen, twenty-five or thirty years. We could have blasted the blight upon the Alaskan economy probably inside of two or three by knocking the land freeze out in the courts. The natives would have been left to their devices under such generosity as they might have been able to get out of the federal congress, which would have undoubtedly been nothing more than a monetary settlement somewhere along the generosity displayed in the case of the Klingit and Haida, if that, and if any measure is to be sought you can look at the Interior Department's bill which was introduced and which talked about $7,200,000 for all of the state of Alaska and the outer limits of compensation which the natives were to receive. To do this would have been unjust and stupid. It would have been unjust because no matter what you say about the legalities of the native claims, there can be no doubt in the mind of any right thinking person that they are based upon historical and moral grounds, grounds moreover which the United States Congress had recognized expressly in the Statehood Act and in prior organic acts creating the self-government of the Territory of Alaska, and even in the treaty. When I say that there were no enforcible legal grounds, I say that I do not think, although some disagree with me, that any existing native claim in Alaska could have been taken to court in the absence of enabling legislation and successfully prosecuted. But that doesn't mean that that claim was not just as right and just as fair and just as proper as any other. For instance, you cannot sue the federal government at all no matter what they do to you unless they consent to be sued. If the federal government runs all over you and damages you, do you think that your claim is any less right, proper, just, fair, because the federal

government hasn't consented to be sued. Of course not, and the federal government therefore has granted blanket consents to be sued, and also in specific instances will continuously grant consent in order to recognize claims which are otherwise fair and just.

Recess: Mr. Strandberg granted a five minute recess.

After recess, at 8:45, Mr. Boyko continued his testimony.

MR. BOYKO: Mr. Chairman, I will try to come to the point quickly, but I want to say that if the decision had been made to fight these claims, which was recommended by some well meaning but I think misguided people, it would have been not only morally wrong but stupid because a fifth or more of our people in Alaska are native people. They are part of our community, part of our lives, our neighbors. Anything we do to help the federal government deprive them of their right to a place in the sun we take out of our own mouths, out of our own pockets, out of our own state. I think the governor saw this very quickly, at the beginning. It was I believe in February of 1966 that he first met with the leaders of the native people in Anchorage and laid out a concept of what he considered a fair and equal settlement of native claims. It has undergone some changes, but basically has remained the basic blueprint of the whole concept of settling the native claims. I think his wisdom in taking this approach is going to be recognized more and more as time goes along. In order to accomplish this it became very clear that there were going to be three parties to come to an accommodation, the federal government (which alone could make an over all settlement of the native claims), the native people themselves and many of whom feel sincerely that any thing less than

all of the land of the state is a compromise, and finally the state, because number one, the state was directly affected. It was the innocent third party that got in the middle and got hit with the land freeze although it hadn't done anything wrong, but also in other ways. Because the state was deeply interested in what happens to the health and welfare and economic well being of one-fifth of its citizens. The state has a real economic stake in getting out of the federal government the just due of the native.

I will spare you how the tri-part type meetings were arranged, how the task force came into being, except to say this. It became quite clear from the beginning that if the federal government was going to make a meaningful contribution (and I think that any of you who attended the meetings at Anchorage are aware of this) if the federal government was going to show any kind of generosity and wisdom in dealing with this problem, it expected the state to make a significant contribution. Originally as the concepts began to develop at one stage we conceived of the federal government giving the native people a chunk of land plus a monetary settlement based upon lands they could no longer get, and that the state would come in and the federal government would make a similar grant to the state to compensate it for its loss of choice of selections under the statehood act, a concept which incidentally is not entirely dead. One of the compromises which developed was that it was generally agreed that in order to induce the federal government to give this state this additional grant of land, the state would have to make a generous contribution in terms of revenues or a share of the land itself to the native people. We were talking something

like 25%. In order to induce the federal government to do this we had a graduated scale which ranged from ten to twenty-five per cent, depending on how many additional acres the federal government would give the state of Alaska. It was also provided that if the federal government, and this was one of the compromises which was reached after much discussion, if the federal government wound up giving the state nothing, still the state to show its good faith and to make the settlement possible would still give the native people ten per cent of what it got from the federal government, past or present. This concept is now almost totally lost and the only thing that is left is a five per cent royalty on future selections, not past or present, plus the tidelands and the 90 and 52-1/2% income, in return for a lifting of the land freeze, which will presumably come at least two to three years before we could get a final decision from the court. That is a compromise in which the native people have come 90% of the way from where at one time it was understood it would be acceptable to all parties concerned. Again, at the federal hearings at Anchorage it was clear that the senators who were present felt it most important that the state make a significant contribution because this would be a big selling point of the federal bill. If you therefore consider that a bill, and there are many areas in this bill where you could disagree and make changes and I will come to those in a minute, but a bill substantially such as the one before you what it would do: number one, it would get us perhaps two to three years earlier a reprieve from the land freeze that we can hope to enforce in the court; number two, an inducement to the federal government to make a most generous, we hope,

settlement with the native people of Alaska, which would immeasurably benefit the entire state. Therefore, you are looking at something that has tremendous potential benefit for the entire state with comparatively a bargain price tag on it, though I admit we are not talking about peanuts. Even though we may relatively be speaking of a lot of money, it is a small price to pay for what the state gets, and most important it goes into our own economy. It goes into areas where if you don't do it by way of a just settlement, then you are going to have to do it by way of welfare, by way of projects, by way of subsidies, so you are not really giving a great deal away.

Now coming to the bill itself. Because of the compromise nature of the situation, because of the many, many cooks that were serving up this broth, we never did come up with a perfect draft. This particular bill, for instance, was the result of a task force compromise draft, which I then took on behalf of the state and I made it clear to all parties concerned that I did not attempt to write a final compromise which is totally acceptable. I simply put into the bill that the task force had come up with those items which I considered were minimum requirements of the state administration before it could seriously back this bill. By that I don't mean to say that we negotiated this thing to the last item. I think there are areas which all sides recognized at the time this was introduced that were still subject to further negotiation and compromise. This bill at the moment, with some minor exceptions, contains the minimum proposition which the state administration, the governor and those who advise him, feel the state could live with. There are areas which we feel need tightening up. Likewise,

there might be areas where we could give a little more without hurting the state. But I want to make this clear, that this is not something that has been bargained out in every respect.

Now, coming to some of the points that were raised this morning, and also the amendments proposed by Mr. Jackson to this bill, I have jotted them down and I will take them in the order in which they came up.

One of the points that was made was the question of why should the majority of this commission be taken from the native population. Primarily because the whole concept of this bill is that there would be a one-time settlement with the natives, a separate peace treaty if you wish, in the hopes of thereby encouraging the federal government to enter into the far more important over-all peace treaty. Whatever benefits are derived from the separate settlement would be turned over to the native people for their own management as quickly as possible with the least creation of bureaucratic empires a la BIA. With the least red tape, with the least overhead. But it was clear that some agency had to be created to more or less arbitrate internal conflicts which would sit as an umpire during the transitional period. This we conceived should be an agency that belonged to the native people of Alaska because it would be their money they would be administering, the money the state had said "this is yours as part of our settlement", and it is only the federal government I submit that gives you something and then takes it back. When we give a settlement, whatever it is, to the native people, they ought to administer it. I for one have always felt very strongly about that. I would like to see that in the federal commission, however, I understand the Interior Department doesn't feel that way.

MR. STRANDBERG: I think that since you have made your presentation and we are getting into the details of the bill, I think you had better take them one by one, and have questions asked, to speed things up.

MR. BOYKO: All right, sir.

MR. STRANDBERG: I have a question on this. On the creation of the commission, I asked the same question today of Mr. Jackson, in the interest of any legislation that actually is adopted by us, do you see anything wrong with allowing the governor or his designee to be the seventh member of the board?

MR. BOYKO: No I don't see anything wrong with it. Neither do I see anything wrong with the natives having a built in majority. It is just a question of psychology. The native people of Alaska should feel this is their commission and I think we would be ahead if they did. I think by this time that if they don't know yet that this governor is for them they never will find out. No, in answer to your question I see nothing wrong with it.

MR. STRANDBERG: Are there any other questions on this point?

MR. RAY: On the appointment of the state commission, is there any idea, Mr. Boyko, that the governor would not appoint a like commission of Alaskans, or would he accept the federal commission.

MR. BOYKO: That depends very much on what the commission comes up with. I think this, I can't speak for the governor on this point because we haven't discussed that one for quite some time, but from what he said at one time and from my own thinking, which he has never disagreed with, if the federal government comes up with the BIA, for instance, to make an extreme example, we are not going to accept that as the state commission, no.

MR. RAY: Then in all probability there will be an Alaskan commission.

MR. BOYKO: I think there is a good likelihood that the federal congress will come up with a commission which the state of Alaska can accept and can confer powers upon. I think that commission will not have a majority of native people on it, because the Interior Department objects to it, but as long as they are all Alaskans and as long as the other criteria of this bill are met substantially, I think the governor naturally would prefer not to have two commissions. It would be a waste of money and would be undesirable. I think there is a good chance if we get any kind of a good federal bill we are also going to get an acceptable commission.

MR. RAY: Do you think the commission will be Alaskans, or will they be--who will they be?

MR. BOYKO: This bill presupposes, on page 3 at the top, that these are going to be Alaskan residents. If they are not, the chances are that we are not going to accept the federal commission.

MR. RAY: Then in all likelihood there will be two commissions.

MR. BOYKO: If that should happen--you see, the federal bill involves a substantial grant of land plus revenues from the outer continental shelf. The state bill simply deals with revenues and certain procedural matters. There is no reason why they couldn't be administered separately. It would be much more desirable to have them administered together. But certainly the royalty which the native people of Alaska get under this bill, if it is enacted, should not be administered by a commission controlled wholly from Washington by people who are not residents of Alaska. I think that would be bad.

MR. RAY: What would happen then, Mr. Boyko, if there was an impasse between the federal commission and the state commission?

MR. BOYKO: The Alaska state commission would be created to administer purely and simply the royalty provisions of this act, separate from the federal.

MR. RAY: Nothing else?

MR. BOYKO: That's right.

MR. STRANDBERG: Are there any other questions on that? Then let's proceed.

MR. BOYKO: All right. The next point brought out by Mr. Jackson was the six month's limitation extendable by the government. I have no objection to that. I don't think it is going to be necessary. I have some slight misgivings because I think it is going to encourage or maybe discourage the real effort which would be made if it weren't in there, and which I would like to see, because I think it will benefit everybody, native and non-native alike, to have the land freeze lifted as quickly as possible. It should be understood how this land freeze situation works. At the moment some 360 million acres of land in Alaska, which is all of the public lands of Alaska, are under the freeze, under the private sector, the public sector, under the state selection, everything. The native people of Alaska have indicated through their leadership acceptance of the bill, which would give them a maximum of 40 million acres of federal lands which they could select for the benefit of their communities. I think they also know in their hearts that they may get considerably less. But they have said certainly that they would be satisfied with 40 million acres. In that 40 million acres they are entitled to be protected so that

when they finally get that 40 million acres to select that there will be lands to select from. Certainly in order to protect a maximum of 40 million acres, you do not need a freeze on 365 million acres. What we are proposing is that the Secretary of the Interior may withdraw temporarily up to 40 million acres, based upon a tentative nomination, it will not be the final choice, which would come right now, and which I am sure could be taken care of in 60 to 90 days if somebody made a real effort, and then the land freeze would be lifted, and there would still in effect by a freeze on 40 million acres and we would try to select that 40 million acres tentatively, so that there isn't much of a chance that anything will ever be lost to the native people which they will have a right later on to select as a result of the lifting of the freeze. I think this is a perfectly practical way of doing it, one that should probably ve been done six months ago. I don't see any need for more than six months. Any extension of the freeze for more than six months is costly and unnecessary, but if the proponents of the amendments feel they want the governor to have the power to extend it for short periods of time, not to exceed six months, certainly I won't oppose it, provided it is made crystal clear that this is a matter that rests at the complete discretion and judgment of the governor, so that somebody doesn't take him to court and say he should have extended it another three weeks. Then we are back where we were.

MR. SACKETT: How can you foresee that you can go out into the bush and in 60 to 90 days you can select all these lands.

MR. BOYKO: How do I foresee it? You have, what, 250 communities in question? How long would it take let's say five people to visit them all and meet with their councils and get some

idea as to their preference. Not a complete description, just an idea, saying to them, "Look, let's say we go to Minto, and say, "Look, where would you like it." How long would it take them to do that?

MR. SACKETT: Not very long. It would depend on how much money you have and how you are traveling, and secondly how long it would take specifically to go to each community and explain the whole procedure.

MR. BOYKO: Assume you don't explain much except you come to the council and say, "Look, all I want to know from you right now is assuming you get 150,000" or whatever the figure is, you would have some kind of a projection of what the maximum would be, "where would you like that land?" Ninety per cent of the time it is going to be adjacent to your community. The other time there may be some special situation which can be taken care of. I think that certainly in six months, if you have a half a dozen people visiting these communities, you can do it. I think you can do it in three, and I think you can do it sooner. All we do, you take your map, you just take townships, you don't even bother to worry about details, and you give yourself a margin of error, because you know and I know that you are not going to end up with 40 million acres from the federal government. You may end up with 20. You put that on the map and the state says fine, we consent to this being temporarily withdrawn. I grant you that when the final selections are made there is going to have to be some adjustments. But the adjustments are going to come both ways, and nobody, I think, is going to cause any difficulty. Ninety-five per cent of what you are ever going to select will be covered by that 40 million

nomination, and after all, that's what the land freeze is for, to make sure that additional land aren't expropriated before you can take. . .

MR. SASSARA: Assuming this were to occur, what would be the status of that land as far as its relationship to the state with that which is not selected by the native people. Say the land freeze is lifted, and the natives have selected its 40 million acres. Now, the balance of that land, what condition is it in as far as the state is concerned?

MR. BOYKO: You mean after the 40 million have been taken off the top? In the first place, we will start out and have virtually all of the present state land selection can be processed to patent at that point.

MR. SASSARA: Wait a minute now. I can't see that because, let's take Minto, which is John's area, as an example, which is encompassed by state selected land. Let's assume this is a tentative selection on the part of the people of Minto, and there may be some adjustments required later. Now, what is the status of that land?

MR. BOYKO: You are anticipating something which I was going to come to, but it will be discussed right here. The one area of substantial disagreement between the native people and the state which remains, is the present thinking of the state that neither under the federal bill nor under the state bill can it consent to a priority of selection on the part of the natives on lands already selected by the state. Eighteen million acres. At the moment, and this is something for further examination, the state's position is that the native's 40 million acres is going to have to come

from the approximately 350 million acres, which will be left after you take out what the state has already selected, tentatively approved or not. We realize that in some areas this will create problems. Minto is a perfectly good example. And the way we propose to resolve that is through the exchange provisions of the federal act, which will permit Minto to select in lieu of that which they would normally have selected lands in an area which are not preempted. They go to the state and say, "Look, we would like to have a 100,000 acres directly around our village. You people have already preempted that, and we have 100,000 acres here which are just as good, or better, and we would like to swap." There isn't any reason that I can see that the state wouldn't do that.

MR. SASSARA: You would have to have an agreement between both parties if that swap were to occur.

MR. BOYKO: You could even write it into the state law. I wouldn't worry about that, as long as you say that they must be substantially of equal value, and in order to permit a community to select land immediately surrounding it, that it shall be mandatory to do so. I have no objection. I think it is in there now. Barry just pointed it out to me.

MR. SASSARA: Let's talk about this land. There is still going to be a cloud over the land, the other million acres that haven't been selected. There is still going to be somewhat of a cloud over it, is there not.

MR. BOYKO: You mean because of the continuance of native claims?

MR. SASSARA: You are talking about approximate area, but not definite. You still have this cloud because presumably up to the

time that the claim is settled select any of the other 310 million.

MR. BOYKO: Except that really it is the native people who give out the protection as to that.

MR. SASSARA: That's why I am bringing it up. Now, if the state were to move ahead and make selections for any part of that 310 million, that would preclude the natives from taking it.

MR. BOYKO: That is right.

MR. SASSARA: Except on the basis of some sort of exchange.

MR. BOYKO: That is correct, and I can only tell you again that on the other hand the native people would have a freeze on 40 million acres, which probably will be maybe twice as much as they are really going to get.

MR. SASSARA: Getting back to what John's problem was, I kind of have to go against your thinking on this. I don't think you can make this selection in 30, or 60, or 90 days.

MR. BOYKO: You mean the tentative nomination, where you don't have to do anything but pick out the townships?

MR. STRANDBERG: The federal government would do it faster than that. Let's go on here. Let's not get into too many details. There are some of these things we can straighten out in committee.

MR. RAY: May I ask one question. Ed, most of the native communities are represented by native councils, and they know what lands already they want.

MR. BOYKO: I am sure they do.

MR. RAY: And there shouldn't be any trouble then.

MR. BOYKO: And some of the native leaders have told me so.

MR. SASSARA: I think you are wrong. You have already told us they have claims that are bigger than the state.

MR. BOYKO: I know, but we are not now talking about their asking price. We are talking about a compromise in which they are willing to settle for about a little over 1/10th of what they asked for, so we have come a long way from that.

MR. STRANDBERG: Let's go on to the next one.

MR. BOYKO: A question was raised as to the non-taxable status of land, and this was specifically discussed with the governor, and he agrees, or at least he did when we last discussed it, and I am sure he hasn't changed his mind on this, that it is desirable not to tax the raw land, even after it is turned over to the native people, because a lot of it is going to be bare tundra until something is done. If a property tax were put on bare land, raw land, they could lose it before they ever got a chance to do something with it, because they simply wouldn't have the money to pay the tax. The land should become taxable the moment it begins to produce revenue, or the revenue should be taxed. I think that part of it is fair and reasonable.

MR. STRANDBERG: We got into that point this afternoon, if we did put on a statewide property tax, and if people other than the natives were being taxed for their land, and there was this exemption, this exemption would, I assume, extend to the land values under any tax development, would this be true?

MR. BOYKO: No, only as long as it is held in trust. The moment it passes into unrestricted ownership the land itself would become taxable, as I understand the federal bill.

MR. STRANDBERG: What would be the situation if on some of this land there was an industrial site. Under the bill the way it is proposed land values would not be taxable.

MR. BOYKO: That's right, as long as it is still trust land.

MR. STRANDBERG: Would the structure on the land be taxable?

MR. BOYKO: Yes, which is progress from the present state, because native people now can acquire restricted deeds, and when they do nothing on them is taxable. This is much more liberal than the existing law.

MR. RAY: What you mean then is that the state keeps these lands in trust.

MR. BOYKO: No, you have got to keep this separate. We are talking lands- -under this bill there are no lands, so we are not talking about this bill. But under the federal bill, the native people will have a choice of taking the land in a trust arrangement or taking outright title. When they take outright title at any given time, the land itself becomes taxable. But even under the federal bill, as I understand it, if it hasn't been changed since I last looked, the revenue producing improvements will be taxable, even when the land is still in trust.

Mr. Ray reads from the Constitution.

MR. BOYKO: The federal government doesn't have to pay any attention to our constitution, unfortunately, but this would be followed anyway. The federal government could exempt it all if they wanted.

MR. SASSARA: Don't you think we should have some time limit on that?

MR. BOYKO: On what.

MR. SASSARA: On the tax free status.

MR. BOYKO: There is a time limit. What is it, 25 years? (Mr. Boyko confers with Mr. Jackson.) Mr. Jackson: When the stock

can be sold.

MR. BOYKO: Which is 50 years now, I think.

MR. SASSARA: That's sort of running up and down. You have got it set at 50 now?

MR. BOYKO: I think it is at 50 now. A lot of this is in a state of flux, there is no question about it.

MR. STRANDBERG: You mean it is in a state of flux as far as the agreements are concerned.

MR. BOYKO: As far as, number one, so far as federal legislation is concerned we don't know what we are going to get, and as far as the meeting of the mind between the native people and the representative of the state administration is concerned. When this was thrown in the hopper we realized this was not something we could say to the legislature, "This is it, please enact it." We realized a lot of changes would have to be made.

MR. STRANDBERG: We are in the unfortunate position right now though of arriving at a point where we are going to have to stop. . . so far as the legislature is concerned. We have to make a decision and write a bill. I would agree that this thing is still in a state of flux.

MR. BOYKO: Yes, a lot of these decisions are of the nature of six of one kind and half a dozen of another. Frankly, whether you keep trust status of the land for 25 years or 50 years doesn't mean a great deal as long as you are actually able to tax the real value derived from the land, which is a lot better than you could do ever before on native owned land.

MR. STRANDBERG: It is not a simple problem because we have the file here on what is happening on the Tyonek reservation, and we would not want to have that happen.

MR. BOYKO: Tyonek is not following these prescriptions. Tyonek is going under the old law which keeps everything off of the tax rolls, so this is a great improvement over the Tyonek form.

MR. RAY: I asked Barry about the connotations of royalty or share of proceeds. What is your connotation?

MR. STRANDBERG: Bill, we are taking this step by step. Are you jumping ahead now?

MR. RAY: No, I thought we were there.

MR. STRANDBERG: We were taking it step by step, so if he misses it we will come back to it.

MR. BOYKO: I have it on my list. As a matter of fact that is the next point. Royalty and share, which incidentally is an awkward wording and again is something that just sort of "grew up". At one time it was called a royalty, and I have called it a royalty and share because not all of this is really going to be properly classified as a royalty. When you get a portion of the income from a lease on land which is not primarily for the extraction of resources, you certainly can't talk about a royalty. Maybe a better term can be devised in the final draft, and we keep thinking about it. But whatever you call it, royalty, share, royalty and share, royalty or share, the concept of this is that this is an irrevocable grant as part of a settlement of a conflicting claim of title. Start off with the assumption that the State of Alaska either claims title or the right to acquire title to 103 million acres. The native people of Alaska claim actual title by aboriginal rights to all of that 103 million. You either give 103 million in total to the state or you give 103 million to the native people, or you split it. The way we split it was to give it all to the

state, and the natives would disclaim it forever, and in return for that they would get five per cent of the revenues derived by the state, or proceeds derived by the state, from the disposal of lands selected in the future and tidelands. What is the status of that? It is a grant, if you wish.

MR. RAY: What you are saying in effect is that in order to get around public purpose, sec. 6 of the Constitution, you are making this a grant and not an appropriation?

MR. BOYKO: You are talking about the dedication clause? I don't think the dedication clause even touches this.

MR. RAY: No, the one before, public purpose. Where no appropriation of public monies should be used except for public purpose.

MR. BOYKO: This is a public purpose. It is like every time the state gets sued and makes a settlement, that's a public purpose.

MR. RAY: This is an annual, irrevocable grant, that is to be given every year from then on.

MR. BOYKO: No, it is a one-shot grant. The mechanics are such that it is proposed to do this by appropriation. It wouldn't have to be done that way, although I grant you it is a much better way of controlling it. Let's suppose for a minute that the state had said 103 million acres or 100 million acres are worth one billion dollars, and in order to get a quitclaim deed from those who claim all this we will give you 1%, which is 100 million dollars. But obviously we don't have a 100 million dollars, so we are going to pay it to you a million dollars a year for the next hundred years, and will give a note, and every year the legislature will appropriate that debt service, a million dollars plus interest. In a sense that is what you do, except you are not paying it out

in money, you are paying it out in a percentage of whatever happens to be coming in that year.

MR. RAY: Whatever you call it it is still a dedicated amount.

MR. BOYKO: Of course it is a dedicated amount. But there is nothing in the constitution that prevents this kind of dedication. It is neither a tax nor a license.

MR. STRANDBERG: What is your interpretation of what lands this royalty will apply to in the way this bill is written now?

MR. BOYKO: The royalty source clause needs to be rewritten because the exclusion language doesn't make any sense except in terms of what at one time was thought--it was thought at one time it would apply to lands heretofore selected by the state. In that case these exclusions would have been meaningful. Now all they do is confuse the issue. I think if you eliminated on page 9 at the top everything from "revenues from lands which" and just say "were heretofore selected by the state prior to the effective date of this chapter" you would have it. Item 1 is in conflict. You would want to take that out too. That's on page 8, lines 26 to 28, "revenue from tidelands and submerged lands which are or have been conveyed to others under AS 38.05.320", that's the preference right of the uplands owner and I think that should be excluded, because otherwise we will be paying revenues on lands which the state no longer owns, or is going to lose. Basically what this does is we give a 5% share to the native people on any revenue coming to the state from the disposal in whatever manner of lands hereafter selected, and that means of course lands selected after the land freeze has been lifted, and tidelands and revenues received under sec. 28 of the Statehood Act, which means oil leases,

coal leases, prospecting permits, etc.

MR. STRANDBERG: Is it your intent and your understanding that this will include 5% of the Soldotna and Swanson River unit.

MR. BOYKO: I don't think it was ever discussed specifically. The way it is now written. . .

MR. STRANDBERG: Wait a minute. I discussed it with the governor and it was not his understanding it would include. . .

MR. BOYKO: I am not disputing that. I haven't discussed it and it was never discussed. . .

MR. STRANDBERG: Do you disagree that the way this is written it does include. . .

MR. BOYKO: Yes. It does include it, and I do know that at one time it was proposed to exclude existing leaseholds, but that was also part of the package which would have permitted the royalty to apply to past collections on this thing. I think this is one of these areas where there is some more negotiation necessary.

MR. STRANDBERG: Is it your interpretation, in interpreting this statute do you believe that it applies to the Cook Inlet Basin, the productive area of the Cook Inlet Basin?

MR. BOYKO: The way it is now written, yes.

MR. STRANDBERG: Is it your interpretation that that was the governor's intent?

MR. BOYKO: No. I think the understanding with the governor at one time was that it would not apply to existing leases, but that it would also apply to all selections past and present. When that was taken out in the course of further negotiations whether anybody went back to the governor and said, "In return for this

will you throw in what you have already got on tidelands', I don't know. I wasn't there when they did it.

MR. SASSARA: How did the bill get introduced? If the rules committee wants to impress the governor, then they should review these before they introduce them.

MR. BOYKO: They did, and I am sure that the governor was not aware of the fact that at the moment this had crystalized it included certain things which maybe he hadn't intended to include. It wasn't analyzed that closely. We had about 24 hours in which to get it down under the deadline which was set for us by the people who wanted to have it introduced. We knew that we would throw it in the hopper and there would be lots of changes in it before it was finalized. Mr. Chairman says he has discussed it with the governor and I assume that is correct. I have not discussed with the governor in recent times his thinking on whether or not Cook Inlet or Swanson River should be included, nor do I know whether the governor is at the moment aware that this has eliminated all existing state land selections, which were included at the time he assumed that Cook Inlet and Swanson River were not going to be included. This is something that needs to be taken up with the governor.

MR. STRANDBERG: Who wrote this section?

MR. BOYKO: The task force.

MR. STRANDBERG: What attorneys wrote this section?

MR. BOYKO: I have no idea, but the task force attorneys, I presume, collaborated. All I did, as I said at the beginning of my testimony, I changed the things which I felt were absolutely minimum requirements of the state. One of these, while it did

not apply to past land selections, I would rather have that than exclude Swanson River and Cook Inlet, because I firmly believe that we are just at the beginning of resource development. We have just scratched the surface.

MR. STRANDBERG: Are there any other questions on this. Shall we go on then so we can. . . I think we have that point. I won't say we have it clarified, but at least I think we have an understanding as to what the section as it is written now means. To be honest with you, that's a long ways from where I was when I first looked over this bill. I am glad to hear we have two very able attorneys who agree that it does include those two sections.

MR. BOYKO: Next is the proposed amendment to spell out the terms of contract, and I see nothing wrong with that because that was the intent, to make the royalty provisions a contract between the natives of Alaska and the state of Alaska, in return for which the natives would waive forever any further claim against the state, which was expressly preserved by the provisions of the Statehood Act.

MR. SASSARA: We did some changes on that, didn't we?

MR. BOYKO: This was an amendment that Barry proposed this morning and I have no quarrel with that, although I haven't seen the actual language.

MR. SASSARA: This is on page 15?

MR. STRANDBERG: We are not on page 15, yet, are we?

MR. BOYKO: I am really not going by the sections, Mr. Chairman. I am going by the notes that I have made on the proposed amendments. But if you would rather have me go back and pick up the sections, I would be glad to.

MR. SASSARA: That's Sec. 38.30.340 on page 15.

MR. STRANDBERG: Wait a minute now. In the bill I have in front of me it is on page 9, section (b) seventy-five per cent [page 9, line 13], I think we had a question on that.

MR. BOYKO: I have a note here on that too.

MR. STRANDBERG: I would like to have your comments on that, because that is the next item I have marked on the bill.

MR. BOYKO: Seventy-five per cent for capital improvements. No what was the change on that? Do you have that, Barry? I remember now. This was discussed first with the governor. In fact it was the governor's idea to do it this way. The last time it was discussed it was discussed between Dr. McMurray and myself and Barry. Assuming that Dr. McMurray's views reflected the governor's present views, then the proposed amendment is in accordance with the governor's desires. In other words, he is not objecting to this money going into capital improvements, even though they may be of a quasi private and profit making character, along as the community benefits by the economy being raised. If they want to build a spa, or if they want to put in a processing plant, there is no reason why that 75% shouldn't apply to that. The point was, the governor wanted to make sure that no more than 25% of this money would actually be handed out in cash or grants or family allowances, or home improvements, and that 75% would go into something permanent that would raise the standards of the community.

MR. STRANDBERG: At one time in a discussion the thought was that 75% -- 75% of the funds went to capital improvements it would serve a public purpose. That many of these projects would be public purpose that other parts of the state would have to be invested

with anyway. So the state would be relieved of some portion of that burden. The way this section is written, it is very conceivable that there would be no relief whatsoever for construction of schools and other public buildings. That they would all go into things other than that, and the state still would have the liability for those public projects. This is a change then in the concept?

MR. BOYKO: Not at all. I was present the first time the governor brought it up and what he wanted to see is that it go into capital improvements, and whether that was a cannery or a school or a spa or a silo didn't make a bit of difference to him. Anything that you put in there would return benefit to the entire state, because it would create employment, it would create values that could be taxed. The main thing he didn't want it to wind up in a big party.

MR. STRANDBERG: Are there any other questions. Let's go on then.

MR. BOYKO: Tell me what the next one is. I may not have kept proper score. My next one is temporary trust and eligibility to hold shares.

MR. STRANDBERG: Are there any questions on that? Then the next, Barry had some questions at the bottom of page 10, and that has to do with how long this thing should be in force. What's your thoughts on that?

MR. BOYKO: My thought on this is and has been that when it comes to the ownership of this thing by the native people, I would want to be guided by their best judgment. I don't consider my judgment that superior to theirs. If their best legal talent comes up with any solution, unless it adversely affects the desirable

interest of the state, I don't care how they do it.

MR. STRANDBERG: If the federal government comes in with a much lesser period of time in relation to this, would you still contend that the--if there was a clause put in here that would state that we would have to be in keeping with the federal, would you object to that?

MR. BOYKO: No, I think that would be a good idea all through the bill that we try to avoid conflict, although we are talking about an entirely different situation. The federal government is talking primarily about land, although eventually the money part may be more important if the continental shelf ever gets going, but primarily the immediate impact of the federal bill is going to be a grant of land, and the state bill would be a grant of money, and I wouldn't be particularly disturbed if different standards were used. But I would prefer, and I think the native people would prefer, some uniformity because it would alleviate a lot of the problems.

MR. RAY: I want to ask about the certificate of incorporatio [Line 2, page 10], where it says that for a 100 years the native commission shall make the rules and regulations for all the native groups.

MR. BOYKO: I think that is an awful long time.

MR. RAY: It seems to me, and how does an individual share holder--do they put all their shares together and vote for something?

MR. BOYKO: I presume there would be no interference with the right to vote. This has to do with the right to dispose of it. It has to do with internal management.

MR. RAY: How does the shareholder in a regular corpor ion, how does he announce his beliefs?

MR. BOYKO: You have an annual meeting and the management puts things on the agenda, or the shareholders put things on the agenda, and you vote your shares.

MR. RAY: The native people would have that right?

MR. BOYKO: Yes, just like any other business corporation.

MR. RAY: The Alaska Business Corporation Act, that takes care of it, right?

MR. BOYKO: Yes, but I do agree that 100 years is a long time. I would say half would be plenty.

MR. STRANDBERG: Let's go on. I have nothing more until page 13, sec. 38.30.270, regarding the clause which keeps people from getting married.

MR. BOYKO: I don't think that is what that does. Under the provisions of both the federal and state. . .

MR. STRANDBERG: Let's argue from the standpoint of the way it is written, and not what it intends to do. Do you disagree that the way it is written that two people if they were married would get 160 acres, and if they were single they would get 320.

MR. BOYKO: I don't disagree, and I don't see anything wrong with it either, because we do that in a lot of situations. We just don't want a family, papa, mamma, and eight kids, and each saying we need 160 acres a person. But if a young lady who has absolutely no desire to get married wants 160 acres that's all right.

MR. STRANDBERG: I want to go back to the basic premise of this whole deal. There are so many native people on this roster. Some of them are married and some of them are single, but on this roster they should all be equal, shouldn't they?

MR. BOYKO: No, not when it comes to distribution in kind.

Distribution in kind presumably is going to be a matter requiring a great deal of individual judgment, and all this does is set down some basic ground rules. Hopefully it will be each community, each local corporation which will make the decision of how much they are going to distribute and under what ground rules. It will vary a good deal from one community to the other. In one community acquiring some land to build homes on may be vital. In another, it may not be important at all. I have no objection to this being rewritten to give a married couple, for instance, 240 acres instead of 160. I don't care about that. Basically, what they are trying to do here, is when they do distribute in kind like land and put a limitation on it, then somebody who has 18 kids doesn't come in and put in a claim for every member of the household, when in reality they are all going to be living on that same homestead anyway. When the son goes out and establishes himself he can come in for his share.

MR. STRANDBERG: In arriving at the total amount of land any community is going to receive, they will use the total population of the community.

MR. BOYKO: Yes, but the concept is that most of that will be held by the corporation for development and investment, and not to be distributed to the individual members. The people are going to want to see some tangible results here and now. The person who needs a piece of land to build his homestead or his house won't be able to understand why, when the village has 150,000 acres, why he can't get 80 acres as a plot of land for his people, or 40 or 20 or 5, and this is to take care of him, but this is not the main purpose of it.

MR. RAY: I want to discuss some of Barry's proposed amendments.

MR. STRANDBERG: I would assume when Mr. Boyko is testifying that if he doesn't raise any objection to them, we will take care of Barry's amendments later.

MR. RAY: Mr. Boyko wasn't here when these amendments were made this morning.

MR. BOYKO: Yes, I was, and I have notes on all of them. There are two that I strongly disagree with.

MR. RAY: You don't argue with the one he suggested on page 10 and the top of page 11. And then about the 100 years.

MR. STRANDBERG: We already went through that. He already testified that he didn't object to changing that.

MR. BOYKO: That's right. In fact I would approve changing because I think it is too long and we don't want that commission to last 100 years.

MR. STRANDBERG: Mr. Ray, there are many of these items we will have to take in detail, and what I am trying to do is get the main objections now, and see if we can go through it.

MR. SASSARA: It seems to me some place in the bill here we grant to the commission certain powers which include promulgating rules on how this land will be dispensed. Don't you think it would be better if we knock out this reference to 'including all persons in the immediate family', because if a village has 15,000 acres that they want to distribute as they want, they should be able to go ahead, with the approval of the claims commission.

MR. BOYKO: I am sure that nobody would object to that.

MR. SASSARA: There is a theory we operate under that land isn't really worth anything until it is in somebody's hands.

MR. BOYKO: I think the main purpose for putting this in was to allay any fears that it was going to be a big Roman holiday and every body was going to walk away with a deed.

MR. SASSARA: I don't think we can avoid some of that to some extent, regardless.

MR. BOYKO: I have no feeling that way, and I think probably the more flexible you leave it the better it is going to work. There are two proposed amendments by Mr. Jackson which we stated we have strong disagreements on, although there is still a possibility that we may work some of these out. One of them is priority of the state selection and the consent thereto. This is presently in the federal bill as written and we have not yet submitted the formal section by section analysis of the bill, and when we do we are going to object to that in the federal bill. The state will not consent to this. Of course we are not going to consent to it in the state bill where we have a little more say. However, this is not based on any absolute opposition to the concept of priority. It is simply based upon out present knowledge of the status of land in Alaska. When you take all the land in Alaska, and take off the top the land which was drawn by the federal government which we cannot touch, but which the natives may be able to draw from under the federal bill if it is passed as proposed, and when you take away from that 40 million acres, there is very little left that is good and valueble for the state, and if you permit the native selection to invade that which the state has already selected but not yet patented, the state may wind up with nothing, or nothing much, and when you consider that this is at the heart of the statehood bill that the state must have this land to make it, then it gets to be pretty serious business. This

is one area where we have to hang tough, because it won't do anybody a bit of good if the natives get a lot of very valuable land and the state goes bankrupt. They are going to lose what they have, because they are in the same boat with us, just like we are in the same boat with them. It has got to be a two-way street. The only way to work this out, and I have been trying to set up in the last few days a meeting with Mr. Kelly and Mr. Jackson and myself and someone from the governor's office, and I haven't bean able to get everybody pinned down. The only way we can really do this is to actually project this thing on paper and find out what it would do to give the native people under this formula a priority on state selections. Mr. Jackson maintains you can do this, and because of the percentage formula it still wouldn't affect as materially the state position as Mr. Kelly fears. If he can convince Mr. Kelly of that I won't stand in the way. Until he does I think we will have to hold tight on that.

MR. STRANDBERG: The problem goes beyond Mr. Kelly.

MR. BOYKO: Except this, that Tom feels so strongly about it, that I think that if he can be shown that he is wrong in his fear that this would cripple the state selection program, you can be pretty sure that we are safe. The only thing you can do is apply it to any given selection area.

MR. STRANDBERG: The state has about 18 million acres of land so far that they have selected. You could take 40 million acres of the rest of the state, I am sure that anybody with any knowledge of the states resources could take 40 million acres and just about complete the selection.

MR. BOYKO: That's about right.

MR. STRANDBERG: If you get a priority on the 18 million, I agree with you, the state would end up with nothing.

MR. BOYKO: That's right. That's our present thinking, and all I am saying is that we are not closing our eyes to the possibility that we could be wrong, but someone would have to show me before I change my position on that, and I am perfectly willing to be shown. Now, the other one which we do not agree with is the ban on third party interests on tentatively approved lands, because that follows from the first. We don't agree that there should be any selection from tentatively approved lands. We don't agree there should be any selection from not yet tentatively approved lands, except to the extent that actual use and occupancy is established to the satisfaction of the secretary, in which case they won't be approved then. I don't even think that this legislature would have the right to give away without consideration, in effect, that which the state already has. You can settle future claims, but if we are right in our legal interpretation of the Statehood Act, and our legal interpretation is that when the Congress said the State of Alaska is hereby granted and shall have the right to select 103 million acres, that's when the state of Alaska got title to 103 million acres and all that remained to be done was to say, "Right here is where we want it". But the title attaches as of the moment of the grant. That's what's known as an in praesenti grant, and there is all kinds of law supporting this. If that is true, then nobody has any business giving that away. The federal government certainly can't, because they have divested themselves under this theory, and the state shouldn't be doing it because it would be giving away something which it already has and which is not under dispute, legally.

MR. HENSLEY: I have a question, regarding the statement on tentatively approved lands. You feel then that--what do you feel that the Congress is going to do about the native claim lands within the state?

MR. BOYKO: Say that again.

MR. HENSLEY: What do you think the Congress is going to do about the lands used and occupied and claimed by the natives?

MR. BOYKO: I think that on tentatively approved land that matter has been adjudicated, and if--let's assume this, that the Secretary of the Interior has approved tentatively a tract of land of 100,000 acres, or 500,000 acres. Let's assume there is a village sitting smack, dab in the middle that nobody knew was there. Prior to patent, even on a tentative approval, you could go back and show that and have it excluded. As far as any large claims are concerned, any large scale selections are concerned, I think they should not be made except on the basis of exchange, because the native people are going to get 40 million acres and if they want for reasons of contiguity a piece out of a tract already selected by the state, they ought to trade for it. If they don't, the state is going to have nothing left. That's what we are worried about. If we could invade the withdrawn land that the federal government has on ice, there would be no problem. This is what I have been screaming about. Where I wanted us to come back and have the right to make nominations from withdrawn land, the moose reserve, the Kodiak bear reserve, all those. If we could do that there would be plenty for all. But if we are going to wind up with the leftovers, which is all the federal government has given anybody thus far, because the best lands are always the withdrawn lands, the reserved lands, the somehow encumbered lands. If we are going to have to

between us share what's left, if the state of Alaska gives any group of people an absolute preference right to 40 million acres and they could come and take it from anything which hasn't been patented, you defeat the purpose of the Statehood Act.

MR. HENSLEY: I think the Congress probably intends that. I don't have to worry about that in our area at this point because we don't have any state selected lands. I think there will still be a conflict there, and I don't think the argument that the state will bear has an in praesenti grant or at that point they should have had title. I don't agree with that. I think the Congress meant it when they said they would protect us in our use and occupancy of land.

MR. BOYKO: Of course that's Mr. Udall's claim on the land freeze, and I won't know who is right until the courts rule on it. What I am saying is that this legislature--I would not recommend that it resolve that issue by simply consenting to the granting of this preference right on land which has already been granted to the state, because we presently think the consequences would be disastrous on the state and we certainly don't want to hurt the native people, nor do we want to hurt the state. We are going to have to live with one another for a long, long time.

MR. HENSLEY: That I don't disagree with, but I think we can reach a. . .

MR. BOYKO: I think we can, and that is why I said we have not closed the door on the possibility of somebody showing us a formula whereby we can do this.

MR. STRANDBERG: I would like to remind you the door is closing awfully fast.

MR. BOYKO: No it isn't, because

MR. STRANDBERG: Because of the legislature.

MR. BOYKO: Yes, but don't you see, if you don't consent now to letting native selections have precedence, you don't preclude yourself from doing it later when it develops that this is possible. Particularly after you see what kind of a federal bill you get. If we get a federal bill where we get compensatory lands to the state and a right to nominate withdrawn lands, I would be all in favor of just opening it wide up. But until that happens, as long as we are just getting the skim milk, the federal government getting all the cream, I think we are going to have to be careful, or one or the other is going to wind up with nothing. The most I would go would be some kind of a alternate or parallel selection process, but certainly I wouldn't advocate under the present situation, giving anyone an absolute preference right of 40 million acres, because we don't know where we will wind up, and the suspicion is that the state would wind up with virtually nothing, particularly from the state's point of view. You see, a 100,000 acres of tundra around a village may be important to a village, but to the state it is most important that it gets primarily the important resources, the areas where there is going to be future development, areas where there may be railroads built, the areas where harbors are going to be created, so in some areas the state has different objectives in its selections than the native.

MR. SASSARA: Not if I were a native.

MR. BOYKO: Thewhole concept of the federal bill even is primarily to provide land for growth and expansion of communities. It doesn't allow you to go hunting all over the state for where you think the next oil well is going to be. I think

it is only fair if you have preempted the village of Minto from selecting the land around its location, I think it is only fair to say, "Well, all right, go some place else and pick up what land you can".

MR. SASSARA: What will you do about the 5,000 natives you have living in Anchorage?

MR. BOYKO: I am told they get on the roll wherever they came from, although my predecessor felt that somehow it was sacrilegious to think that Elmendorf would be subject to a native land claim. I never felt that way. But Anchorage, after all, was a moose pasture at one time. There is nothing special about Anchorage.

MR. STRANDBERG: Are there any other questions, now.

MR. BOYKO: Let me say in conclusion, Mr. Chairman, again I think you are to be congratulated on the tremendously thorough job you are doing, and I know that in doing it you are not going to lose sight of the overall benefits which are to be derived from a generous internal settlement with out own people, in terms of goodwill and in terms of economic development, in terms of avoiding the mistakes of other states and communities in which ethnic and racial groups are played once against the other, and hatred and dissatisfaction is built up. I think Alaska is showing a break-through here of how peoples of different origin and backgrounds can live together and enhance one another, instead of destroying and fighting one another. I know you will bear that in mind whatever the final settlement is going to be. I think if we did nothing else but settle this point at least insofar as the native people and their own state of Alaska is concerned, and show a united front to the federal government. Whatever the federal government

did, even if the native people had to go back to court to get the federal government to give them a just due, we would be so much further ahead than we were a year or two ago that it is unbelievable because in a way, to me, the most destructive feature of that whole controversy was the unabashed attempt that I saw by the Department of the Interior to play the native people of Alaska against their own state. This is the theme Mr. Udall and his assistants kept harping about. I am sure whatever you come up with is going to be fair and generous and along the lines that the governor has outlined as his concept of a settlement with our own people, and when you are dealing with your own family you have to be a little bit more willing to give and be flexible, perhaps, than we should be with people who live 3,000 miles away.

MR. SASSARA: Did you send a copy of this bill back to Washington as soon as it was introduced? At their request?

MR. BOYKO: Yes, there was a letter I think from the committee counsel to the House Majority Leader, Mr. Stevens, that they be sent one, and this was complied with.

MR. STRANDBERG AND MR. SASSARA: Is there an answer back?

MR. BOYKO: It wouldn't come to me.

MR. JACKSON: I have had some feed back from three different sources in Washington involving that letter, but I am not authorized to attribute it to anybody.

MR. STRANDBERG: This was a formal request by the legislature for an answer. Aren't they going to answer anything?

MR. JACKSON: It is my understanding that no formal answer will come back. They feel it is a problem between Alaska and its natives, and they would rather not get involved in it.

MR. BOYKO: That is a change in attitude brought about in the past year. They used to think they had to tell both sides what was good for them. I think they are beginning to recognize in Washington that we are a state now.

MR. STRANDBERG: We want to conclude this hearing tonight. Is there anyone else here who would like to be heard tonight on this subject?

MR. WRIGHT: I would like to be heard, Mr. Chairman. My name is Don Wright, and I am president of the Cook Inlet Native Association, and vice-president of the Alaska Federation of Natives, and the Alaska area representative to the National Congress of American Indians. I am also a member of the task force. I worked on the rough drafting with the task force from the very beginning all the way through to the final here. I made a trip back to Washington, D. C. for a meeting the 4th and 5th of October. It was an executive session of the National Congress of American Indians, and we had the opportunity to go before groups of senators and representatives, and we also had a private meeting with the Secretary of the Interior and Vice-President Humphrey. It was the general consensus of them all and a definite position of the Secretary of the Interior that the federal policy is headed toward the native people taking the lead, being active in everything that is going on, and dealing directly with the state and the state legislatures. It is their feeling that if the state and the native people have come this far and know what they want, and know that they can carry out the conditions that they set up for themselves, that they are going to go along with it by and large. I never ran across one individual that was against this settlement, who didn't

think that Alaska was taking the lead, and that the natives in Alaska were taking the lead, and the general consensus is that they want eventually to do away with BIA, and they want the people to be self-sufficient. I think the text of this bill will do just that. I think the native people, if they get this land, and if they get the support from the state, will become self-sufficient. I think it is very important that the state at this time pass this type of legislation, as near to this form as possible. When they talk about the priority preference selection rights of the natives as compared to the state, I think all you legislators ought to realize that the native people will develop that land, and the development of that land will result in revenues to the state, because by the terms of this legislation it will be taxable. I don't think we should take the attitude that the state is going to get hurt badly, because the native people who are part of the state get the preference right to land that historically is theirs. It is their homeland and they are entitled to a land base, and they need an economic base as well as a land base, the same as the state as a whole needs it. I think it is very important that we keep in mind that the native people are citizens of the state and they are well integrated and they are getting gradually into the main stream of society, and they are going to continue to do this. We can accelerate it now, we should accelerate it now, and the whole state will benefit. There will be no regrets because of the native people selecting lands and developing it. They are just as capable and they can hire just as good technical advice. To me it doesn't seem the threat that it seems to other people that this land is going to be a detriment when the native people get it. It is

going to be an asset to the state. Things have been covered pretty well. I think that Mr. Boyko is doing a good job, and I think that his intentions are good and I think his advice is good. The native people do want to cooperate. They intend to cooperate, and they are looking to you to show them a way and give them an avenue where they can come out in front and be equal to the rest of the citizens of the state.

MR. STRANDBERG: Do you have anything to add to the testimony of Mr. Boyko?

MR. WRIGHT: Only to disagree with him on the two points that he disagrees with us on. I don't believe that there is a threat there. I don't think it is as deep as he seems to think it is. I think it is something that is going to work out. The way that this legislation is drafted gives the commission a terrific power. If the members of this commission act in good faith a lot of these detail things can be resolved, will be resolved, including exchange of lands. The commission has the authority. The commission is going to act as an advisor to the individual corporations as they are organized and will grant them the final rights for the method of drafting their constitution and by-laws, and so on. I don't think there is near the worry on the legislative level as there might be if this commission is in the hands of people that are not really fair, honest and with the best intent. If this commission is carefully selected and if these people will function fairly a lot of these details will be taken care of automatically.

MR. STRANDBERG: Would you have any objection to having the designated governor/as the one member of the commission.

MR. WRIGHT: No, I have no objection.

MR. STRANDBERG: Have you anything else to add? Who is the attorney for your group?

MR. WRIGHT: Clifford Groh has been acting most. Stanley McCutcheon is another attorney. The work that has been done has been done jointly by Barry, Roger [Connor], the attorney general's staff, and Clifford Groh.

MR. STRANDBERG: These amendments proposed by Mr. Jackson, has your attorney had an opportunity to go over them?

MR. WRIGHT: I am not sure that they have directly. I spoke to them on the telephone and we discussed them briefly. I am sure they are aware of them. In minute detail, I don't think so, but in general they are, I am sure, and they are in agreement.

MR. STRANDBERG: If we accept these amendments, may we expect that your attorney may disagree with them?

MR. WRIGHT: I don't believe so. I think he will agree with them.

MR. STRANDBERG: Can you get this in writing?

MR. WRIGHT: I think so.

MR. STRANDBERG: Are there any questions by any other member of the committee?

MR. JACKSON: I would like the privilege of asking through the chair whether he has any comments on whether Secretary Udall would accept the method of lifting the land freeze through nomination as proposed under the governor's bill.

MR. WRIGHT: It is my feeling that he would do that. As I understand his outlook on it, if the native people and the state agree, then he has nothing to disagree with. He is actually only trying to protect the natives and their rights and interest in the

land, and if we can agree I can see no obstacle from his department.

MR. STRANDBERG: Have you any knowledge of a statement having been made in Washington, or information from Washington, that subsequent to the land hearings in Anchorage, they considered that this was a federal problem, and the state had no part of it, and that they were going to settle it as a federal problem. Have you any knowledge of that statement?

MR. WRIGHT: This is the way that I understand it. They feel that the native people, as far as the land claims themselves are concerned, are dealing strictly with the federal government. But as far as the relationship between the Indian people and the native people and the state, that is a separate matter. Although they will be influenced by the cooperation and the direction that is given by the cooperation between the native people and the state. If we agree, the federal government will go along. If we all agree, it is my impression that they are willing to go along with whatever we come up with as a solution.

MR. STRANDBERG: Who are you representing?

MR. CONNOR: My name is Roger Connor. I represent the Aleut tribe, the Aleut community of St. Paul Island, Alaska, and the Aleut League. I participated in the drafting of this and the federal legislation. I want to limit myself to a few topics which came up tonight. As to the dedicated fund problem, there is certainly a clear distinction between a lease and a license legally. A lease is a stake in land. A license is not. The law creates a variety of differentiation between the two. When the Constitutional Convention used that language, whether it understood that this problem would ever come up or not, I am convinced is not

a substantial constitutional problem. I am sure that what they were talking about in the constitution was license fees in the usual sense, such as liquor licenses, driving licenses and the like. Even if they had a vague notion of the licenses concerning real property, there is a vast difference between a license and an estate in land, and I submit to you that isn't a problem. Also minerals are recognized as being severable from the fee interest in land, and you can create estates in minerals. Minerals are conveyed in the law of real property like land is itself. Through various devices you can take the minerals away from the land and treat them still as if they were land. None of these conveyances are in the category of licenses.

The next topic I would like to touch upon is the sec. 6(m) tideland grant in the Statehood Act. The Statehood Act does not use the term "grant", but it says the submerged lands act of 1953 shall be applicable, and the state shall have the same rights as other states. If you go to the 1953 submerged lands act, you find a grant to the then coastal states of everything out to the three-mile limit. The lands during territorial times were held in trust for the future state, but not by a trust which was self-executing. It was merely a doctrine established by the U. S. Supreme Court. This has been the traditional treatment of tidelands. It required sec. 6(m) of the Statehood Act to actually transfer those lands to Alaska, and that is why we used that reference in this bill. It was merely to refer to those tidelands.

Next, some comments on the points raised by Mr. Boyko. He says, of course, that the state could possibly beat the land freeze in court. I think it is important to realize this still leaves another issue, a very serious one for the state. I want you to

know there is substantial basis for the state paying this royalty in settlement of the native claims. Under legal decisions it has been determined that although the natives can settle with the U. S. government, the government may extinguish their rights in so doing. Other persons may be bound until that extinguishment occurs. If the state beat the land freeze that doesn't mean the native groups couldn't go in and sue the state. The lifting of the land freeze is basically a suit between the state and Secretary Udall. Assume the state wins that one. That doesn't mean that the group rights are cancelled. The groups may be able to go in and successfully sue the state of Alaska. I am not sure they wouldn't prevail in court if they had to be litigated.

This raises another question, and that is that the Statehood Act has two inconsistent clauses in it, one of which preserves native property rights and the other one grants 102 million acres, and it doesn't settle the problem. The problem would basically wind up in the U. S. Supreme Court. I disagree with the Attorney General in part, in other parts I agree with him. It is more serious than he thinks it is. Just calling it an in presaenti grant doesn't solve anything.

As to the royalty sources and the language, originally the concept was different and that is why the language is strange here. What the natives thought they were getting when the bill was originally drafted was the right to select land for townsites under the federal act within the TA areas. Instead you are giving royalties in TA areas, in the state selected areas, as well as areas where the state already has title. I want to point out that if you were not to chop out the Cook Inlet Basin and the previously

selected areas from the royalty sources, then the natives would be chopped out of two of the most substantial elements that went into the bill, and which they thought they were settling for. As it is now they have been chopped out of the provision of the selection of land around the towns. Apparently the governor's staff has substituted this as an offset. If you chop both of these out you now retrench on what the governor grants as a royalty I think the whole thing will be unacceptable.

As to the priority of selections, I feel that there ought to be a meeting of some kind between the people who represent this committee, the natives, the governor's office or the attorney general, to see just what impact it might have if the villages were allowed to make selections of townships within TA lands and the previously selected lands. I believe a great deal of the 40 million acres will not be in this conflicting area, and there may not be such a bad impact as people fear. I think we should have a better idea of what we are talking about before we discuss the merits. It may be possible to work it out in the next day or two.

MR. STRANDBERG: Are there any questions.

MR. SASSARA: If the group enters into an agreement, can an individual sue?

MR. CONNOR: No, he cannot. They have no peculiar rights individually. These are completely group rights. [There ensued a discussion between Mr. Connor and Mr. Sassara on this topic.] It will all be worked out via the corporations. The Natives Claims Commission will establish standards. We were trying to use a reasonable measure, a traditional homestead amount as the top limit, it must be less in actuality. We didn't want to

jeopardize the federal bill. I don't think congress is going to allow legislation which permits hand-outs of a lot of land to individuals.

MR. SASSARA: Are we talking [in the bill] about ratifying what's in this bill and the federal bill, or the two combined, or what?

MR. CONNOR: We are talking about this bill. I contend that it will be necessary in sec. 501 of the federal bill to insert a provision releasing the state of Alaska, because only congress has the power to settle and extinguish native land claims, and in this case to release the third party, the state of Alaska. At least to remove any doubt about it, so that we will eliminate the possibility of any suit arising by some group who says that the state's settlement with them wasn't adequate. This is not in the federal bill through an oversight. It should be.

MR. HENSLEY: I think you must remember that in the lower states practically all the Indian claims had been in final status when they got their reserves. There were no individual rights as such. What we are trying to settle at this particular time, where most of us are used to living under state and federal law, is the preserving of the concept of private property.

MR. SASSARA: That's what I was trying to find out, Willie. This is based on group claim but does it have individual distinction here to give it individuality?

MR. CONNOR: The native commission will develop standards. We have to put the maximum of 160 acres on or I think we will have trouble.

Adjournment: The meeting adjourned at 10:40 p.m.

HOUSE FINANCE COMMITTEE MEETING
March 26, 1968
9:05 a.m.

Present: All members of the Finance Committee except Mr. Strandberg who was attending another meeting. Also present were Representative Don Smith and his wife. The Press was represented by Virginia Sims.

Mr. Haugen opened the meeting.

HB 491 Mr. Borer moved and asked unanimous consent that HOUSE BILL NO. 491 (amending the teachers retirement act) be considered by the committee. No objection, so ordered.

Mr. Miller stated the essentially this is a clean-up bill. The first three sections of the bill reschedules the dates of contributions to the fund and sets the teachers' retirement year the same as other retirement systems. The 4th section requires the state to make their matching contribution to the fund monthly rather than semiannually. Section 5 now permits a teacher to withdraw contributions to the fund at any time--under the present law it was necessary to request withdrawal within five years after leaving membership service. Sec. 6 covers the payment of survivors benefits.

Mr. Ray noted that Sec. 12 redefines "minor child" for survivor benefits at age 19 if not attending an institution of learning and age 23 if they are attending school to bring the act more in line with Social Security benefits.

Mr. Miller noted that Sec. 7 permits a lump sum payment to a beneficiary of a teacher if there is no surviving spouse or minor children.

In reply to a question relative to the cost factor of this bill, Mr. Miller stated that he had been assured that there

is very little--in fact it would cost more to cost it out than the cost of the bill. This statement had been verified by the actuaries.

Mr. Borer questioned the negligible cost factor in that he felt the disability retirement allowed below the age of 60 could prove to have a financial impact on the state. Mr. Haugen said that there is a letter in the file relative to this section.

Mr. Ray referred to Sec. 9, page 4, line 8, regarding the words "directly" or "indirectly" and questioned who would make the determination on the cause of disability.

Mr. Miller suggested that if the committee wished to go into the bill in more detail, Miss Hackwood be requested to come over and testify before the committee. The committee agreed that there were several questions they would like Miss Hackwood to clear up for them and the bill was returned to the file until a meeting can be arranged with Miss Hackwood.

HB 678

Mr. Haugen asked Mr. Sassara if he was ready to report on HB 678 (relating to carriers). Mr. Sassara stated that he still needed some more testimony on this bill. He said that the bill has to be redrafted and he will try to have a redraft for the committee by tomorrow.

HB 700

Mr. Haugen advised the committee that Mr. Moore, commissioner, Department of Labor, was present and would give testimony regarding HB 700 (relating to participation in programs of manpower training by the Department of Labor).

In reply to a question by a committee member on whether Mr. Moore was in favor of this bill, Mr. Moore replied that he definitely was.

Mr. Moore stated that HB 700 is enabling legislation for the department to use state funds in training programs. He noted that under an initial training program with the logging industry of the 20 graduates of the program, all are either now employed by the industry or have offers of employment. He said that the logging industry had assured him that they can absorb all that are trained under the program. It is the plan for the state to train an additional 25 residents under this program. He said that HB 701 is the companion bill which will provide the funds for this purpose. He stated that Vocational Rehabilitation has the training funds for the educational aspects of the program and that all they need is the permission of the legislature to implement the program and the state funds are required for administrative, transportation, subsistence and training allowances for the balance of this fiscal year. He added that the logging industry, even at the entry level, provides wages in excess of $8,000. Mr. Moore explained that the training is provided on the job and use of actual equipment and not just classroom theory. He stated that superintendents of logging operations and other individuals of the industry come in and lecture on various aspects of the work and also safety--all areas beneficial to the trainee.

Mr. Sackett asked if the bill is for loggers only and Mr. Moore replied that it was not. This request is to supplement funds provided for manpower training--there is money for the training, but nothing for allowances or transportation for individuals wishing to participate in the program.

It was brought out that the Department of Education would provide the teachers, textbooks--everything connected with the educational aspect of the training course. Mr. Haugen commented that this bill would be of help to those persons in villages who could not afford the transportation and expenses during training period. Mr. Ray asked if they would need another appropriation next year. Mr. Moore replied that this is only needed for the balance of the current fiscal year.

Mr. Moore left the meeting. Mr. Strandberg joined the meeting.

HB 356

Mr. Borer moved and asked unanimous consent that HB 356 (increasing the amount of assistance to dependent children) be considered by the committee. No objection, so ordered. Mr. Borer noted that the bill has been costed out by the Department of Health & Welfare at $728,266. He added that the Health, Welfare and Education Committee had prepared a Committee Substitute, but the only change was the addition of a last line making the maximum allowable under this section $280 per month. It was the recommendation of the subcommittee that the Finance Committee either amend the bill or prepare a new committee substitute where the new language is $130 reduce to $105 and in the last line of original bill the $30 be raised to $50. It was then the subcommittee's recommendation that the increases be cut in half which will make the new cost for this year one-half of $728,266 or $364,133, which has already been funded out in Department of Health & Welfare budget, with a letter of legislative intent that the second half will be picked up in the budget next year.

Mr. Borer continued that it was his recommendation that the amount be $105 for the one and one and $40 for each additional rather than the $50--split in half and spread over two years.

There was considerable discussion relative to the maximum allowance of $280 for a family. Mr. Ray objected to the restriction for the larger families and felt that a committee substitute should be prepared. Mr. Strandberg said that he would take the bill to the chairman of the Health, Welfare and Education committee and discuss the changes proposed to see if it was agreeable. The majority of the committee felt that it was necessary to prepare a committee substitute. After further discussion relative to the proposed substitute, Mr. Strandberg stated that a committee substitute would be prepared. Mr. Borer asked if the committee wanted to retain the $280 maximum allowance. Mr. Ray objected. Mr. Borer suggested that this language be taken out and not put any maximum allowance on it. Mr. Strandberg asked if this would make it more palatable. This was agreed to.

LETTER OF INTENT

Mr. Borer moved and asked unanimous consent that Finance Committee Substitute for House Bill No. 356, with a letter of legislative intent that the total amount will be funded out in next year's budget, be reported out with a "do pass" recommendation. No objections, so ordered.

HB 700

It was moved and unanimous consent asked that House Bill No. 700 (relating to manpower training by Dept. of Labor) be reported out with a "do pass" recommendation. No objections, so ordered.

HB 701 Mr. Miller moved and asked unanimous consent that House Bill No. 701 (appropriating $11,808 to Dept. of Labor for training allowances) be reported out with a "do pass" recommendation. No objections, so ordered.

SB 313 Mr. Ray moved and asked that Senate Bill 313 (refunding aviation fuel tax to municipalities) be considered by the committee. Objection. It was explained that the committee had agreed to hold on Senate bills until some of the priority House bills had been acted on.

HB 565 Mr. Haugen asked Mr. Ray about cost factors on HB 565 (community mental health services program). Mr. Ray replied about $90,000. Mr. Ray felt that this program is already covered in the Department of Health & Welfare budget and that all the bill does is set up another board. Mr. Haugen read a letter (in the Bill file) suggesting changes in the bill. There was no further discussion on the bill and it was returned to the file.

Recess: Mr. Strandberg recessed the meeting at 10:00 a.m.

HOUSE FINANCE COMMITTEE MEETING
March 26, 1968
2:15 p.m.

Present: All members of the House Finance Committee with the exception of Mr. Strandberg who was excused for another meeting. Also present were Mary Jean Hackwood of the Department of Administration, Dr. Bierne with a friend and Mr. Barry Jackson.

Mr. Haugen called the meeting to order and stated that Miss Hackwood was there the meet with the committee relative

HB 491 to HB 491 (amending Teachers' Retirement Act). He suggested that Miss Hackwood go through the bill by section and after each section the committee could ask any questions and Miss Hackwood would answer them.

Mr. Miller told Miss Hackwood that the committee had not been satisfied with his answers regarding the bill and he had asked that she be invited to appear before the committee.

Miss Hackwood stated that Section 1 changes the contributions so that they are paid into the retirement fund over a 12-month period, July 1 through June 30, spanning a full school year. This change will credit payments to the proper payment year.

Mr. Sassara questioned the change in date from July 1, 1955 to July 1, 1968. Miss Hackwood stated this was the effective date of this act.

Miss Hackwood said that Section 2 provides the same type of supplemental voluntary contribution as in the original act. She noted that the underscored words on line 23, page 1, were in the original act and should not have been underscored.

Mr. Sassara noted that part of the section had been deleted. Miss Hackwood replied that this is covered in a later section which changes the number of days.

Section 3 provides that all contributions to the retirement fund shall be transmitted no later than the 15th of the month following the close of the payroll period with final contribution for the school year by or prior to August 31. This is to keep records current.

Section 4 will require state matching contributions on a monthly basis rather than semi-annual. Miss Hackwood stated that this will affect the actuarial balance of the program and in the long run should decrease the cost to the state.

Section 5 removes the limitation of the 5 year period in which a teacher who has terminated membership service must file for a refund. It also provides that a teacher who had forfeited his claim under the original act may file for a refund. Miss Hackwood stated that there is very strong feeling by the teachers on this section as many withdraw from membership and do not file for a refund as they expect to return and then circumstances will prevent them from doing so.

Section 6 allows for continued payments to minor children of survival benefits in the event of remarriage of the surviving spouse providing the income of the surviving spouse does not exceed $8,000.

Mr. Borer objected strongly to this restriction as he felt that the teacher had made the supplemental contribution in order to provide this income for minor children and it should not be arbitrarily stopped because of the amount of money the surviving spouse is earning. It was brought out in a letter (in bill file) read by Mr. Haugen that the actuaries did not go along with the arbitrary restriction relative to survivor benefits to minor children.

It was suggested that on page 3, line 3, that a period be placed after the word "allowance" and the balance of the new material in this section be omitted. Miss Hackwood said she would have no objection to this.

Section 7 will permit payment of a lump sum to the designated beneficiary of a teacher who had elected the supplemental contribution, of 75% of the amount payable if the teacher had less that 20 years service and 100% if the teacher had 20 years or more.

Mr. Ray questioned the use of the pronouns "he" and "his" throughout the bill. Miss Hackwood said there would be no objection to changing this to "teacher" or "member."

Mr. Borer questioned where the money comes from for the benefit payments. Miss Hackwood stated they came from the Retirement Fund. Mr. Borer asked if it wouldn't cost more to have these additional benefits. Miss Hackwood said it was thought the additional cost would be insignificant.

In reply to a question relative to how many of the teachers have elected to have the supplemental contribution, Miss Hackwood stated less than one-third. Mr. Borer stated that if it was going to affect even one-third of the teachers, it was not clear to him why it isn't going to cost more money and questioned where the money was going to come from.

Mr. Haugen requested Mr. Miller to check this out further and get the information for Mr. Borer.

Miss Hackwood said that the amendment to Section 8 merely corrected the wording. Line 24, page 3, should have read "or" instead of "and" in the original act.

Miss Hackwood continued that Section 9 permits surviving spouses who become disabled prior to the age of 60 to receive the pension.

Mr. Ray stated that one of his questions was on Section 9 and referred to line 8, page 4, and the words "directly" and "indirectly." He questioned who would make the determination. Miss Hackwood replied that it would have to be a physician--the department would have nothing to do with it.

There was considerable discussion relative to the use of narcotics due to illness and chronic alcoholism. Miss Hackwood said this language had been included by the actuaries.

Mr. Borer stated that he objected to both words (directly and indirectly) and asked if it would be possible for the actuaries to let the committee know what additional cost would be involved if those two items were taken out. He stated he didn't see how these people can be discriminated against when society now regards both alcoholism and narcotic addiction as illnesses.

Mr. Borer then referred again to the $8,000 limitation in Section 6 and asked if it had been a policy determination. Miss Hackwood said that it had been. Under further questioning on who had made the determination, Miss Hackwood said it had been made by the deputy commissioner of the department at that time--Mr. McDonald.

Mr. Miller suggested that the words "directly" and "indirectly" (page 4, line 8) and the restriction on survivor benefits for a minor child based on earnings of the surviving spouse be removed.

In reply to a question relative to the cost factor involved with the removal of these restrictions, Miss Hackwood said

she would say that it wouldn't make any difference; however, they have had no experience in this.

In reply to a question on whether the teachers have read this bill and support it, Miss Hackwood replied yes.

Mr. Miller commented that the teachers are supporting the bill because on the whole it is better than what they have now.

Recess: There was a Call of the House and the meeting was recessed at 2:45 p.m.

HOUSE FINANCE COMMITTEE MEETING
March 27, 1968
8:50 a.m.

Present: All members of the House Finance Committee except Messrs. Strandberg and Sassara--excused.

Mr. Haugen called the meeting to order and stated that the committee would consider the various bond issue bills. He

HB 645 said the first one would be House Bill No. 645 (providing for issuance of G.O. bonds for public or non-profit community hospitals).

There was general discussion regarding the purpose of the bill and it was explained that the funds were for proposed construction of these facilities and to supplement the bond issue of 1960. The sum of $140,000 for the Department of Health & Welfare was questioned and also where funds provided for in the bond issue would be utilized. Mr. Haugen read a letter (in the bill file) which set out the federal, state and local ratios.

Mr. Strandberg joined the meeting at this point.

Mr. Strandberg stated that funds are shifted within the program and the bond issue does not specify where the funds will be spent.

There were additional questions regarding the bill and it was requested that Mr. McDonald, commissioner of Health & Welfare be called over to talk to the committee.

Mr. Miller stated that the majority of the bond money would go to the Fairbanks hospital and that the remainder would go to other projects. He stated that Fairbanks is putting up $2 million and that the state is only putting in 20% instead of the usual 30% --due to the fact that Fairbanks had not put

in their request early enough. He also commented that Fairbanks would have had to raise even more than the $2 million were they not getting some Economic Development money for the project. It was also brought out that assistance would be given to Juneau, Ketchikan, Wrangell and Petersburg.

Mr. Sassara joined the meeting.

In view of the continued discussion while waiting for Mr. McDonald, Mr. Miller moved and asked unanimous consent that HB 645 be reported out of committee with a "do pass" recommendation. No objections, so ordered. (Note: This action was later rescinded.)

Mr. McDonald and Mr. Schwartz of the Department of Health and Welfare joined the meeting.

Mr. Strandberg asked Mr. McDonald to give the committee a brief resume' regarding HB 645, and that the committee may have a few questions they would like to ask him.

Mr. McDonald said that the amount of the bond issue had been determined on the basis of state matching funds required to receive federal monies (Hill-Harris Act). It was anticipated that approximately $1,050,000 would be used for the Fairbanks hospital, $50,000 to pick up some loose ends on projects already started under the previous bond issue and the commitment for the Juneau hospital. He said that the federal funds cannot be used until the local and state monies are available.

Mr. Borer asked if there was any slack in the issue that might be used in other areas. Mr. McDonald replied that it was very tight.

Discussion ensued over the use of the $140,000 appropriated