

HOUSE / SENATE FINANCE COMMITTEE MINUTES - 1967-1982 2569

credit would also apply to individuals running a business as a single proprietor. That is why they have put in the \$100,000 limit (at the request of the Association of CPA's)

Senator Orsinsi said that he feels the extractive resources international industry that doesn't sell resources in the state means that there aren't sales in the state and so the state is losing out and will not be getting its fair share of taxes by apportionment (since sales are one of the elements in the formula). Mr. Boetsch said that first, as far as the net income in a jurisdiction in which a company operates, 100% of its net income is going to be stated and the weighting of the formula is based on the three things primarily going into the generation of net income. In the state there will be some property and payroll invested and that is part of their sales. On the other hand, the state where the market exists is entitled to a share of the net income by providing the market for the resources, so the income must be spread throughout the jurisdictions in which the company does business. The second part is that if the income tax does not bring in what the state feels would be their fair share, there are other taxes that can be imposed and the severance tax is the most natural one of these so to get a clear picture one must look at the total tax burden -- not only income tax but severance tax, payroll tax, etcetera.

Mr. Boetsch said that this bill, in somewhat a different form, passed the House last year but was tabled in the Senate because of some objections by the Alaska Society of CPA's. During the interim, however, the Department working with the CPA's came up with provisions that satisfied that group of professionals without damaging the major provisions of the bill.

The second bill in the Governor's tax package is entitled "An act relating to the Alaska income tax; and providing for an effective date." Mr. Boetsch said that they felt it is very important for the state to be taken off the percentage of 1963 federal income tax due system it is currently operating under, and to establish state tax tables. One reason for this is because they have found that a lot of people have trouble calculating their taxes as a percentage of the federal table. In addition, under the present tax law the state has picked up certain sections of the federal procedures going back as far as 1949. The Internal Revenue Code is a constantly changing collection of provisions, and is constantly

evolving. Some of the sections that the state picked up by tying into the 1963 provisions have since been dropped or modified under the federal code, but are still part of the state provisions. Most of the bill is classification of levels until page 9, sec. 5, and this basically defines what taxable income is being talked about and changes from federal taxable income. Part of what they are trying to do is reorganize the structure of the act itself so it is in a logical sequence.

On page 11, Sec. 6, the major change from the present law is that it allows part year non-residents to take a proration of the standard deduction which a non-resident cannot do under the present law. The reason for this is that they felt the present law is subject to challenge. Similar cases have been brought in Oregon courts with respect to Washington residents working in Oregon, and the courts have determined that the method of proration is appropriate. In anticipation of that and in interest of equity this change is included in the bill.

On page 12, Sec. 7, income from sources within the state is defined and that concept is tied down more absolutely. They are trying to clean up the ambiguities that have created problems in administering this law.

On page 14, Sec. 431 (Credit for taxes paid another state), a resident is put on the basis that all his/her income is taxable wherever it is earned and if it happens that an individual has income from another state also taxable in this state, he/she will get credit. Under the present law, the situation exists where certain types of income are included under Alaska statutes but also under another state, and a person winds up paying duplicate taxes with no relief provision. This will provide that relief.

Sec. 43.20.065, Allocation and Apportionment, provides that a taxpayer with income from business activity taxable inside and outside the state, shall determine allocation and apportionment of that income under the provision of Ch. 19.010. Under present statute there is some overlapping and duplication. Now it will all come under the Multistate Tax Compact. Essentially this is "clean-up" language.

Sec. 20.071 addresses itself to some particular problems involved in water transportation carriers.

On page 15, Sec. 9, "allow" is replaced with "require". This is to protect the state if a company should declare

bankruptcy in the middle of a quarter. This would allow the state to force payment on a monthly or even bi-monthly basis if it appeared to be necessary.

Sec. 10 (pp. 15, 16) contains additional language providing for how modification of taxes is to be reported to the state.

Sec. 12 contains definitions that the state has had a problem with in administering tax law.

Mr. Gruening asked if the federal tax rebate comes about, what impact that will have on the state. Mr. Boetsch said that they haven't seen a bill yet. It will depend on how the provision is incorporated into the Internal Revenue Code. If it is incorporated in the sections the state law refers to, then it is possible the state could be required to make rebates as well. It all depends on how it is structured. He said that they have had inquiries from the National Association of Tax Administrators, which is an all-states research group keeping an eye out on these things and as soon as the bill comes down the Association will contact the state about it.

Mr. Gruening asked if it is incorporated in the code, has the Department taken any position on what it will do. Mr. Boetsch said that it will depend on how the federal law is worded. He said that the state could come in with legislation saying that it doesn't apply for state taxes, but if the bill comes out in June or July and it is worded that way, the legislature will not be in session to take any such action.

Mr. Gruening asked about the total tax impact of the tax schedule included in the Governor's proposed bill. Mr. Boetsch said that there really isn't much tax impact. It may mean a \$4 or \$5 increase or decrease in the tax bill of an individual. The attempt of the bill is to simplify by rounding percentages to the nearest 1/2%. The net effect is very small. To the extent that it improves compliance, however, the bill could mean additional revenues. It is basically a simplification and classification. It will be easier to administer and will make it easier for the taxpayer to fill out his/her returns.

Mr. Cowper asked if this bill is expected to raise any more revenue and Mr. Boetsch said no, it is not designed as a revenue measure.

The next proposed bill is entitled "An Act relating to the administration of state tax and revenue laws; and

providing for an effective date." Mr. Boetsch said that the thrust of this is to take several of the administrative provisions that are found in all of the state tax laws (cigarette tax, motor fuel tax, alcohol tax, etc.) in several different chapters of Title 43 and take them out of those and put them all under Ch. 5 and make them uniform. He said that they found that several of the items discussed here are not uniform throughout the statutes at present.

Also, Sec. 1 is a new section which is to allow the Department to hire auditors specifically to audit the books of taxpayers outside of the state. They have a staff of auditors in New York and Chicago who can work on behalf of the state, but they felt it would be better to specify that authority with this particular provision.

The other area of change is in civil penalty. This makes penalties uniform. At present they vary slightly from one to another, so in the interest of ease of administration and for the taxpayer, they felt it was an improvement to have the civil penalties all under one chapter.

Commissioner Gallagher noted that Sec. 43.05.225, Interest on Taxes, does raise the interest rate for some of the taxes, by making a uniform 8%. Mr. Boetsch said that is correct and noted that the federal government is going to 9%. He repeated that this bill is primarily a housekeeping measure.

The fourth bill, entitled "An Act relating to penalties under the Alaska income tax." is designed to take care of the problem primarily evidenced by some Pipeline workers who have filed withholding statements with great numbers of exemptions for the purpose of having no withholding taxes held from their payroll checks. The Department has looked at this and sees it clearly as a fraudulent act. They intend to prosecute some of these cases through general fraudulence procedures, but in such a case one must show a trend to fraud and proven falsification of records and documents. This bill "spells it out" and would make prosecution simpler. He said that from the studies they have done so far, this is a fairly extensive problem among Pipeline workers.

Ms. Itta asked what the federal penalty on this is, and Mr. Messenger said that he thinks it is the same as proposed in this bill but may be a fine of \$1,000 rather than \$5,000. The year in jail provision is the same.

Mr. Haugen inquired about reciprocity among states with reference to state tax evasion. He wondered if the IRS could arrest someone for the state. Mr. Boetsch said that he didn't think they could. Mr. Haugen spoke of the problem that Alaska has faced for years over fishermen fishing in Alaska during the summer, then returning south with all their profits and never paying a dime of state tax. He emphasized that there is a considerable tax loss to the state every year because of this. Mr. Boetsch agreed that the problem is quite widespread, but said that although the state would have access to federal files, they could not have a federal agent arrest someone for the state of Alaska. Mr. Haugen asked, then, if they would have to go the extradition route, and Mr. Boetsch said yes.

The fifth bill in the Governor's tax package is entitled "An Act relating to the Alaska business license tax; and providing for an effective date." Mr. Boetsch said that this bill takes care of the problem of the banks having to file for their business license tax at a different time than they file with the federal government for their federal income tax. This has created some real problems for the bank, and so this bill ties the business license tax in with the date of federal income tax reporting. He said that this makes it easier for both the banks and the state.

Mr. Cowper said that the committee had had the impression that the Governor had several packages of bills and asked about the others. Commissioner Gallagher said that the others are not yet prepared but should be within the next week.

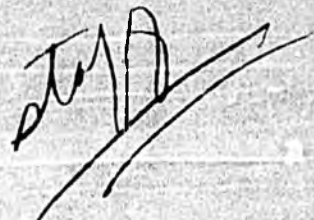
Mr. Cowper asked if there is a proposal for taxation of property in the unorganized borough, and Mr. Gallagher said no.

Mr. Gruening asked what the total anticipated increase in revenue per the corporate tax revision is, and Mr. Gallagher said it is something over \$10 million in the next two fiscal years. He stressed the idea that this is potential, however, because some of the credits can be used in lieu of each other. Some of the credits might overlap.

Mr. Cowper thanked the witnesses and adjourned the meeting at 4:55 p.m.

ADJOURNED

## APPORTIONMENT



Attached is an example of how one worldwide corporate enterprise has been computing its income for Alaska tax purposes over the past 12 years (1960 - 1972). Please see Example 1. When the Alaska Department of Revenue recently audited this taxpayer, the Department computed the tax as in Example 2. The third Example is a resident corporation, showing the amount of tax it would pay. The figures have been rounded in these abbreviated examples.

If the Department continued to permit the taxpayer to compute his taxable income using the allocation method, the State of Alaska would continue to see no tax revenues from the worldwide enterprise whose business activity within Alaska is about the same as the resident corporation. Furthermore, the resident corporation would pay an annual income tax of \$92,610. Therefore, an inequity would exist between a large international corporation and a local corporation as to their respective Alaska tax burdens.

EXAMPLE 1 - ALLOCATION

	WORLDWIDE	ALLOCATED ELSEWHERE	ALLOCATED ALASKA
Gross income:	<u>\$1,000,000,000</u>	<u>\$990,000,000</u>	<u>\$10,000,000</u>
Deductions:			
Cost of sales	700,000,000	690,200,000	9,800,000
Salaries-officers	5,000,000	4,925,000	75,000
Other wages	100,000,000	99,750,000	250,000
Other expenses	95,000,000	94,870,000	130,000
Total	<u>\$ 900,000,000</u>	<u>\$889,745,000</u>	<u>\$10,255 000</u>
Net taxable income:	<u>\$ 100,000,000</u>	<u>\$100,255,000</u>	<u>(\$ 255,000)</u>
Alaska income tax paid:			<u>none</u>

EXAMPLE 2 - APPORTIONMENT

	WORLDWIDE	IN ALASKA	PERCENTAGE IN ALASKA
Property	\$1,250,000,000	\$21,131,000	1.6905%
Payroll	105,000,000	325,000	.3095
Sales	1,000,000,000	10,000,000	1.0000
			<u>3.0000%</u>
			<u>3</u>
Average value of business activity in Alaska			<u>1.0000%</u>
Worldwide apportionable income times average business activity in Alaska			<u>100,000,000</u> <u>1.0000%</u>
Net taxable income			<u>1,000,000</u>
Alaska income tax paid			<u>92,610</u>

EXAMPLE 3 - RESIDENT TAXPAYER CORPORATION

Gross income:	<u>10,000,000</u>
Deductions:	
Cost of sales	8,605,000
Salaries - officers	75,000
Wages	250,000
Other expenses	70,000
Total	<u>9,000,000</u>
Net taxable income:	<u>1,000,000</u>
Alaska income tax paid:	<u>92,610</u>

### COMPARISON TABLE OF ALASKA AMOUNTS

Taxpayer reported information using:

	ALLOCATION	APPORTIONMENT	RESIDENT
Property	21,131,000	21,131,000	21,131,000
Payroll	325,000	325,000	325,000
Sales	10,000,000	10,000,000	10,000,000
Taxable Income	(255,000)	1,000,000	1,000,000
Alaska Tax	none	92,610	92,610

As you can see in the comparison table a taxpayer computing his Alaska income tax using the Allocation Method has the same property, payroll, and sales as resident corporation. If the Allocation Method is permitted the number of audit inquiries required to verify the correctness of the taxable income can amount to 10 or 20 thousand. And for each inquiry the auditor would have to place a fair market value on the product or service being transferred between the related members. Pricing products and services is not the business of the Alaska Department of Revenue.

Multinational corporations annually employ a CPA firm to audit their financial statements for fairness at a cost of several million dollars. The scope of those audits does not even encompass the fair valuation of product and service transfers between members of a consolidated group. For Alaska, the cost of such an audit could well exceed the total tax collected.

Using the Apportionment Method, Alaska auditors can limit their verification to the property, payroll, sales, and income figures of the worldwide operation. It is far more difficult for the corporation to misstate these amounts since to do so he would have to deceive the IRS or disguise his control of some business entity. Since fraud is far easier to prove under these circumstances the taxpayer is not inclined to misstate his income using apportionment. Consequently, the Alaska Department of Revenue saves millions of dollars in the calculation and collection of taxes by not permitting allocation.

HOUSE BILL/RESOLUTION INDEX

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HB 79		Supplemental - U of A, campus security	110-11
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HOUSE FINANCE COMMITTEE  
Wednesday, February 26, 1975  
8:30 a.m.

All members were present, except Ms. Itta who arrived later. Also present were Senator Jalmar Kertula, Stu Hall of Legislative Affairs, Art Peterson, Department of Law, and Staff.

PRESENT

Senator Kertula presented a brief background of CSSB 1 "An Act creating the Office of the Ombudsman." He felt this office was needed, especially in Anchorage, Fairbanks and outlying areas; close to the capital, the legislative arm straightens out problems, but the common man has no real solution and legislators cannot solve administrative problems. He said that about half the people he represents are of the other party and don't feel they can come to him; a person with no political basis is necessary. He feels that this concept is long overdue in the State of Alaska, and envisions a person being appointed with, ideally, the status of a chief justice, with impeccable integrity in order to "stay out of witch hunts." The scandinavian countries all have an ombudsman which is where he originally acquired the interest. Sen. Kertula left for another meeting at this time.

CSSB 1

Art Peterson, Department of Law, was introduced. He brought up the question of exemption of legislative staff and the Governor's staff, and explained that the traditional concept originated with the king and parliament exempt. It was to look into administrative decisions and questions that might be buried in the bureaucracy; someone to ferret out things going wrong in the administration. There have been some modifications, but basically ours has the same exemptions. The Ombudsman must be kept out of the political areas, if he is to be successful, and one way is to exempt the investigation of legislators or the governor. He looks into agency misconduct, individual misconduct, errors; discusses it with the agency and if necessary brings it to the press. The Hawaiian Ombudsman reported that he rarely went to the press; that a high percentage result in no recommendation, but rather explaining the administrative action to the person.

In answer to Mr. Guy's question, he said the language restricting the Ombudsman's political activities is taken from the division that applies to Legislative Affairs and Legislative Finance staff, and is basically to insure the nonpartisan nature of this office. The legislative staff has to deal with both parties and have to retain a neutrality; the Ombudsman and his staff would also have to maintain this.

Mr. Cowper asked how it was determined the Ombudsman would need an assistant and if there would be one person here and one perhaps in Anchorage. Mr. Peterson said that considering the Hawaiian experience and that the Alaskan Ombudsman would

have to travel around, and that some functions would have to be limited in delegation, a chief deputy would be necessary. He did not view this as being in two locations.

CSSB 1

Mr. Gruening asked about the constitutionality of prohibiting the Ombudsman from running for an office for one year, and Mr. Peterson told him he had commented on this, but Rep. Fink was interested in trying something like this and apparently got the committee to go along with him; he didn't know how the vote went in the Judiciary Committee; there is certainly a question of its validity. Rep. Fink's idea was not a restriction on the national office, but a restriction of the Ombudsman himself.

Mr. Cowper pursued the question of an assistant to the Ombudsman, saying that the Hawaiian Ombudsman got along fine with only a secretary, and also had to travel quite a lot among the islands. Mr. Peterson said the Hawaiian act has a provision for a first assistant and whatever staff is necessary; however, this could be an amendment to the original act. He also felt there would probably be a lag before our Ombudsman's office was fully staffed.

Mr. Gruening inquired if the contractual services included rent, and Stu Hall reported that the Hawaiian Ombudsman was offered space in the capitol building, but felt the sumptuous quarters might intimidate people so he rented space elsewhere. Mr. Gruening pointed out that space was to be provided for the office by the Legislative Council; Mr. Cowper asked if the cost of space would come out of their budget, but Mr. Hall was sure that even tho Legislative Council provided the space to rent, the cost would be in the Ombudsman's budget.

The question of a toll free telephone line was brought up by Mr. Cowper, so that rural people would be more able to call the Ombudsman; Ms. Buchholdt pointed out that this, plus advertising, and quite a few other things would under contractual services besides rent. However, she question the salary, saying it was very high to pay \$40,000 initially.

Mr. Peterson reported that Hawaii also had "miniature" ombudsmen in the municipalities. They find that many people don't understand the difference between State and local government, they only see that they are being imposed upon by the government. The ombudsman decides what level of government it is on. The ombudsman can go into local government. Ms. Buchholdt asked about the relationship planned between municipal and state wide ombudsmen, and Art Peterson said that the bulk of municipal complaints would be handled by the municipal ombudsman; but if the local person couldn't or wouldn't handle it, it would go to the State Ombudsman.

In response to Mr. Duncan, he said that by the definition of agency, commissioners, administrative assistants, all appointments of the Governor, and his staff; Everybody was covered except elected officials who are subject to the ballot.

2/26/75

Answering Mr. Haugen, Mr. Peterson said that if a constituent complained to the Ombudsman about a Legislator, it would not be a complaint about him as a legislator, but he could be unhappy about a complaint that was not handled to his satisfaction, for example if he complained about a state office and didn't feel the legislator handled it completely, he could go to the Ombudsman.

Ms. Itta asked why nominations were accepted from the Senate Rules Committee and not the Governor's recommendations or the Judiciary Committee; Mr. Peterson did not know but said the Finance Committee might wish to review the merits of it.

Ms. Naughton asked what the purpose was of "or any of these" in the section on Publication of Recommendations, and Mr. Peterson told him it was to allow the Ombudsman to go to the appropriate agency, instead of all of them or a set list. Mr. Naughton also questioned if anybody else had immunity from civil action; Mr. Peterson said Legislators on the floor are immune; that the basic kind of immunity they are talking about is liable and slander. The privilege not to testify is to encourage people to feel free to come to him without fearing that he would repeat what they said. The Chairman pointed out that one bill gives immunity to civil action for anything during the performance of his duties, and another says he shall have the same immunity as a judge of the State. He wanted to know the difference between the two. Mr. Hall answered that the language in the original bill was dispensed with because they couldn't find an exact definition; this bill has a more limited concept now than the one originally introduced.

There was discussion of the term "may not" in the section on the privilege not to testify. This is to give the ombudsman the complete privilege so that he cannot be compelled to testify. Mr. Gruening suggested using "shall not", but the Chairman pointed out that "may not" negates all permission. Mr. Peterson said that in the Hawaiian Act 96-9 (b) the provision says the ombudsman is required to keep in secret and confidence what he is told, but this was missed in the original drafting of this bill.

Mr. Peterson explained that Sec. 24.55.090 and Sec. 24.55.300 are to make clear that the Ombudsman doesn't get into arguments in which the Administrative Procedure Act applies; it excepts the ombudsman from administrative adjudication.

Mr. Peterson, in answer to Mr. Duncan question on notification of agencies, said that mismanagement of an office is something of an offence even if not impeachable; something that if a clue was given it might be cleaned up before being investigated. The primary example would be in the area of criminal investigation. To check for violations, surprise visits may be necessary, though notification of intention to investigate might be given.

A clarification of the term of the Ombudsman's Office was asked for by Ms. Itta. Mr. Peterson said the five year term was to dis-associate him from any legislative or gubernatorial terms. He thought that the 2/3 vote to remove him from office instead of a simple majority was to protect the Ombudsman from political whim. Ms. Itta commented that the responsibilities were very broad and serious and he would almost have to be a perfect man.

CSSB 1

The meeting was recessed at 9:30 a.m.

RECESS

AFTER RECESS

9:40 a.m.

Mr. Haugen commented on the fiscal implications: That it called for \$160,000 by 1980, and he would "guarantee that bill will cost \$1,000,000 by 1977." He is violently opposed to having an Ombudsman; he believes that it is the job of the Legislator to take care of problems and "if you can't the people can get rid of you." He brought up the example of the Limited Entry Commission and the problems with it. One of the biggest complaints from constituents is buck-passing, and he didn't feel responsibilities should be shrugged off; once a person is in office all the people belong to him. . He pointed out that the State is looking for money now -- he would like the money for a project in his area -- and there was no point in "creating another bureaucratic agency at this time."

Ms. Itta noted that there is a big gap between the constituents and legislative administration and felt that this Bill is a temporary way of bridging the communication gap; however, in rural areas there is not any communication methods at all.

In reply to Mr. Duncan, Art Peterson reported that in Hawaii the cost gradually increased over the five years in office. He will make a report of the last four years available . He said that each year the anticipated budget and requested budget was higher than the Hawaiian Ombudsman actually needed and money lapsed back to the General Fund. He felt that the \$1,000,000 estimated by 1977 was 9 or 10 times too high.

Mr. Haugen remarked that it was up to the Legislator to close the communication gap between the constituency and administration, and would rather see money spent on communications in rural Alaska than on the Ombudsman.

Mr. Peterson answered that while Legislators are in a position to respond to complaints from constituents, some Legislators do not gain the familiarity with the administrative branch as the Ombudsman would; this will be a person who will specialize in knowing the operations of government and its agencies. To which Mr. Haugen responded that Legislators get paid for 12 months a year and a \$4,000 expense account and "if a Legislator doesn't know what is happening he shouldn't be here." No one can convince me that an Ombudsman can do a better job than we can."

Chairman Malone asked where it said from whom the Ombudsman would accept a complaint; Mr. Peterson referred them to page 4 of HCS CSSB 1, Sec. 24.55.110 "The ombudsman shall investigate any complaint which is an appropriate subject for investigation under sec. 150. Mr. Haugen stated that the same results could be obtained from the Legislative Finance staff.

CSSB 1

The Chairman said the Committee would meet at 2:00 p.m. this afternoon.

The meeting was adjourned at 9:50 a.m.

ADJOURN

HOUSE FINANCE COMMITTEE  
Wednesday, February 26, 1975  
7:04 p.m.

All members were present with the exception of Reps. Haugen and Naughton. Also present was Stuart Hall of the Legislative Affairs Agency; Kent Dawson, Director of Budget and Management; Terry Dale from the Office of the Governor; Representatives Mike Miller and Charles Parr; Ms. Joyce Munson, speaking on behalf of community mental health appropriations; and members of the Legislative Finance staff. Present, too, was Wayne Weeks of Budget and Management. PRESENT

Chairman Malone called the meeting to order at 7:04 and introduced Ms. Joyce Munson who, he explained, was going to speak briefly before the committee on the subject of funding for the community mental health programs. HEALTH  
H&SS

Ms. Munson said that at this point in time there is a Community Mental Health Services Act (SENATE BILL 24) introduced in the Senate. She expressed her hope that this bill will pass. In the Governor's budget, he has requested \$327,000 for Community Mental Health services, \$150,000 of which will go to bush communities, and the remainder to go to other communities by application. She said that she (representing the Anchorage Mental Health Association - which is an advisory group of citizens, not affiliated with the state at all) feels very strongly that if the monies are deleted and the bill goes through, there will be no progress made. Without any monies programs are not going to be initiated. It is 20 years since a study on mental health services was adopted, but the state really has not done anything, she said. The program she was speaking for will ask for 25% community involvement and 75% state involvement. She spoke of what a poor job the state has done, since statehood, in assuming the mental health responsibilities of the state. API functions "with revolving doors", which is to say that there is nothing to take care of "in between" problems facing a recently discharged patient. Therefore, such a patient frequently winds up back at the institution for treatment. There is a state-run clinic in Anchorage -- that clinic has generally been staffed with only one psychologist. That clinic has never been listed in the directory under "Mental Health". In fact, the group she is affiliated with is the only listing under Mental Health in the directory, and she spoke of the large numbers of calls that she receives from people needed some kind of mental health services. Alaska is 46th among the states in providing mental health services. Community  
Mental Health  
SB 24

She noted that Alaska is 23% above the national average for suicides, and also has higher statistics for alcoholism, child abuse, homicide, etcetera. She said that she feels strongly that the amount of money requested is not enough money to start programs with, but will at least give the money to implement the bill.

Ms. Itta asked if the statistics on Alaska's incidence of mental health-related problems and relationship to the other states program-wise were available, and Ms. Munson said yes.

[Mr. Naughton entered the meeting.]

Mr. Duncan asked what the match on SB 24 is, and Ms. Munson said 75-25. She said that the only objections to the bill have come from outlying areas which thought the match should be 90-10.

Mr. Duncan asked if they have had requests from communities so far for assistance monies (Ketchikan and Kodiak already have community mental health centers) and Ms. Munson said that so far the Division of Mental Health has had six requests for help. She did not know who they were all from but said that she did know that Tanana Chiefs, Anchorage, Seward, and Kenai had requested money.

Mr. Malone said that in this year's budget the direction the legislature indicated was toward community mental health programs. Ms. Munson said that that had been her impression, that the legislature felt very strongly that the mental health programs should be community based; but she noted that communities will not develop these programs without a mechanism to do so.

Ms. Munson continued that forty some states do have this particular type of legislation. In most of the states the match is 90-10. California started out with 50-50, went to 75-25, and is now 90-10. She said that they realize this is not a good year financially for the State, but she noted that even years when there has been money available for new programs, they just "never got around" to mental health (although monies have been appropriated for alcoholism and drug abuse).

In response to questioning by Mr. Naughton, Ms. Munson said that in Anchorage there are now 30 private psychiatrists charging \$46 an hour. There was one twenty years ago. However, she said she still gets calls from people who cannot afford those rates. She said that

community mental health services do work on a sliding fee scale.

Mr. Malone said that his personal feeling is that the state should invest more money than it has been doing in community mental health.

Ms. Munson mentioned that the idea of community mental health centers is not a new one. She said that 10 years ago there was federal match money available for such programs. They began developing all over the country. Alaska, however, has never matched these federal dollars to create such programs even though it seems it could easily have been done. She said that there is federal legislation pending again for such a program.

Before leaving the meeting, Ms. Munson invited the members to contact her if there is any information or assistance she could provide. Her number in Anchorage is 279-7723. Mr. Malone thanked her for her presentation and she left the meeting.

Chairman Malone announced the committee would know take up HOUSE BILL 45 and COMMITTEE SUBSTITUTE FOR SENATE BILL 1 (Ombudsman) for discussion.

HB 45  
CSSB 1

Mr. Cowper said that he had checked into Zenith system for calling in to the ombudsman. He expressed his feeling that in order for the Ombudsman to be most effective, people should be able to call that office free. He said that he was told it would cost \$42.50 a month to install this system and then you pay station to station rates on top of that. He wondered if this was something that had been considered in setting up the office. Mr. Weeks said that this certainly could be done, probably at \$500 additional cost.

Mr. Duncan said that he did not think that four 3-minute calls per working day sounded very reasonable, and that is all that \$500 additional would allow. He didn't think it was very reasonable and he wondered if there was some basis for coming up with this. Mr. Weeks said that the Hawaii Ombudsman get 1600 complaints a year. He noted that all the calls complaints would not be made by long distance phone calls.

Mr. Gruening noted that the committee substitute provides that space will be provided by the Alaska Legislative Council and he wondered if Legislative Affairs Agency will be reimbursed for that. Mr. Weeks said that if space is provided, that could come off of the budget.

Mr. Gruening asked if that means the Council will be paying for the Ombudsman's quarters out of its budget, and Mr. Weeks said that the initial money will be budgeted in the Ombudsman budget. It may be paid in inter-agency receipts to another agency if the Ombudsman rents space from that agency.

Mr. Dawson said that with the new Court Building going in, there is a good chance of space being freed up in the State Capitol Building. So, if the office is in Juneau, this might be a logical place for the offices. He noted that if the office were in Anchorage, that would greatly affect the volume of long distance phone calls.

Mr. Malone asked if anyone has considered the possibility of installing a system such as the one Mr. Cowper had mentioned and if so, did they come up with any kind of cost figure.

Mr. Weeks said that it was not considered in the fiscal note. He said, however, that he was sure that the Governor's Office would be very receptive to the idea.

Mr. Dale said that a lease line, which is a point-to-point runs \$2,000 a month between Anchorage and Juneau and \$2700 a month between Fairbanks and Juneau. He said that, in checking into Zenith lines such as Mr. Cowper mentioned, that they found these cut down on the transaction through the phone company but the person with the Zenith number is billed for the call. There is no change in the rate. He said that they are looking into a WATS line, but are not immediately contemplating it. They have given no time frame so far.

Ms. Itta commented that as far as the telephone idea for rural areas, she does not see how it is feasible when the present system doesn't even work through most of the villages.

Mr. Dale said that the suggestion was also made that people could call the Governor's Offices, and since he does have offices in Nome, Bethel, Fairbanks and Anchorage, those offices could relay messages to the Ombudsman. However, he said that that might be too cumbersome a method.

Ms. Buchholdt, commenting on the overall contractual services proposed budget for this office, said that she thinks it is very low. She referred to her own experiences and said that she feels the budget they have proposed is very unrealistic, as far as the contractual services portion.

Mr. Weeks said that some of the problems in the budget come from the fact that this is a completely new budget and there is hopefully some flexibility built in.

Mr. Malone brought up the subject of salary. He asked how the figures for the personnel in the Office of the Ombudsman were arrived at. Mr. Weeks said that the \$38,000 for the Ombudsman is equivalent to the salary of a superior court judge. The other salaries are a 28 level for the deputy and a secretary at regular pay range 12. He noted that the bill spells out the salary for the Ombudsman; the secretary's salary is under the merit system; but the deputy's salary would be subject to examination.

Mr. Malone, referring to the House Committee Substitute, asked what the rationale for equating the Ombudsman's salary with that of a superior court judge is. (CSSB 1 provides for salary equal to that of the Chief Justice of the State Supreme Court.) Mr. Dale said that they looked at many bills, and it is pretty standard to have a top salary for the Ombudsman. He said that one is not likely to find a high quality person for a lower salary.

Mr. Dawson said that the basic reason is that they want to have a high quality person because that person will be dealing at a high level of state government. He said that they felt they would have to be paying somewhere around this range -- around the range of a commissioner. He said that they could lower this, but then there may be some trouble getting the kind of person they want.

Ms. Buchholdt expressed concern about this. She said that she is willing to see their contractual budget raised because she finds that preferable to seeing them come in with a supplemental request next session. On the other hand, she said that she wonders if the Ombudsman's salary could be lowered because this is an innovation and maybe it would be a good idea to leave some room for expansion in terms of salary.

Ms. Itta referred to the Governor's letter of 1/22/75, in which he states that the Ombudsman will be required to investigate any complaints. She feared that this may be a duplication of already existing agencies, and was reluctant to see more duplication of effort instituted.

Chairman Malone asked Mr. Gardiner, Chairman of the House Judiciary Committee, to go through his committee's committee substitute at this time.

Mr. Gardiner began going through the bill, explaining the sections with changes.

24.55.020. APPOINTMENT OF THE OMBUDSMAN. Mr. Gardiner said that the general thinking was that they wanted to try to make this a non-partisan office. They finally came up with a 3/4 vote of each house and felt that this definitely gave the majority some selection.

Sec. 24.55.030. QUALIFICATIONS; PROHIBITION AGAINST POLITICAL ACTIVITY. The next change is in (2) of this section. Mr. Gardiner said that this relates to using the Ombudsman as a stepping stone to elective office. He said that the ombudsman will be a prestigious position and could have a lot of public exposure through the press, and they did not want to see it used for political purposes.

Mr. Naughton asked if there was discussion of the constitutionality of that. Mr. Gardiner said yes, that Mr. Peterson, from the Attorney General's Office, was there. Mr. Hall said that he was relying on an Attorney General's opinion from some years ago where the state in effect had qualified constitutional requirements and the opinion had stated that that statute was not sufficient; it would require constitutional amendment.

Mr. Gardiner said that Tom Fink had said that was one man's opinion. He stated that the committee's feeling had been that they didn't want to see this position used as a "launching pad". He noted that there are statutory residency requirements; and that, besides, there are no definitive court cases on the subject.

In (b) of this same section, Mr. Gardiner said that the language is almost identical to the language the state has relating to employees in the legislature to assure their non-partisan nature.

Sec. 24.55.050. REMOVAL. Mr. Malone asked if there had been any discussion in Mr. Gardiner's committee on this section. Mr. Gardiner said that they had gone back and forth on this and had even discussed briefly the idea of impeachment. Two-thirds in each house was their final decision.

Mr. Malone said that his question revolves around the fact that there are other provisions in the bill granting the ombudsman the privilege not to testify in court and he wondered to what extent that would make it difficult for the legislature to get the facts.

Mr. Gardiner said that he wasn't sure that his committee had considered that. Mr. Malone asked him if he sees it as a problem. Mr. Gardiner said that it could conceivably be a problem. He said that he was not sure that the restriction would necessarily apply to an investigative committee of the legislature. He said that perhaps they should get a legal opinion on that. It does only mention immunity in court, but he said that he doesn't think the legislature has the authority to force anyone to testify, anyway.

Mr. Gruening said that he thought if the legislature felt the ombudsman was doing a poor job, they would hear from their constituents, and the ombudsman would want to testify in defense of that.

Mr. Duncan asked if there was any reason for the 3/4 vote for appointment. Was there any discussion as to just what was being done there, he wanted to know. Mr. Gardiner noted that that is 30 in the House and 15 in the Senate. Mr. Duncan asked if they think there might be a case where they would be unable to appoint anyone because of that 3/4 majority provision. Mr. Gardiner said that he didn't think so. He said that they are comparing this position to people like the staffs of Legislative Affairs and Legislative Finance. They are pretty much going to be non-partisan people. Mr. Duncan was still not convinced.

Mr. Miller suggested that Mr. Duncan's concern might partly be that some legislators might be "small enough" to try to squelch the program by refusing to vote for anyone. Mr. Gruening said that he, too, was afraid of this sort of thing happening. Mr. Miller noted that the ombudsman in Hawaii was approved unanimously and hopefully Alaska will find a similar person who everyone wholeheartedly supports. However, in the event that that does not happen, and should there be those who would vote against any person nominated, he said that the statute could always be changed by a simple majority vote.

Ms. Buchholdt asked what the procedure for removal would be. Mr. Gardiner said that there would be a motion from the floor. He said it would be similar to confirmation of the Chief Clerk. Ms. Buchholdt expressed some concern that this might be too easy and this would make the position more subject to political pressures.

Mr. Malone asked if this would be a vote in each house rather than in joint session and Mr. Gardiner said yes, just like the confirmation.

Meeting recessed at 8:00.

RECESS

AFTER RECESS

8:05 p.m.

Chairman Malone called the meeting back to order, and the committee resumed discussion on CSSB 1 and HB 45.

CSSB 1  
HB 45

Mr. Gardiner, in answer to Ms. Buchholdt's questioning about the Removal provisions of the bill, said that Mr. Hall had suggested that they could add an amendment requiring that removal be done by concurrent resolution.

Sec. 24.55.060. COMPENSATION. Mr. Gardiner said that he did not think at any of the meetings or the colloquium on the ombudsman anyone had been upset about the compensation. He said that measures in other state all have the salaries this high or higher -- in some, at the level of the state supreme court judges. He said that they feel it is extremely important that this person be highly qualified and that he/she be on an equal footing with people being dealt with -- i.e. commissioners and other high level state personnel.

Mr. Malone asked about the purpose of the entire bill, stating that comments he has heard have alluded to the fact that there are other "recourse" agencies, like the Division of Consumer Protection and the Human Rights Commission, plus the state is looking at anti-trust legislation, so there is a lot covered already. Mr. Gardiner said that the ombudsman does deal with some things that are not outright legal matters. Mr. Malone asked who would be the clientele, and Mr. Gardiner said the consumer of the bureaucracy.

Mr. Malone said that the reason he asked that is that if you pay the ombudsman \$40,000 a year, he wondered if that would be making that person receptive to the people who would be using the services of that offices, for example an AFDC mother. Mr. Gardiner said that he supposed this would be a valid question about anyone receiving that high a salary. He said that he doesn't know that salary is really a determinant of whether someone is going to be responsive to the needs of all the people, however. He felt that would be more a matter of the background and philosophy of the person chosen. He felt that all a lower salary would do is limit the choice of people to those who would be satisfied with that amount, and he questioned whether that would be a good idea.

Ms. Buchholdt said, referring to Mr. Gardiner's comment that the ombudsman will have to be dealing with people at

the level of commissioners, that the ombudsman will also be dealing with people in a far lower income class. She felt that sometimes AFDC mothers or people on Medical Assistance, or people in similar situations, are reluctant to talk to someone who they feel does not have their same philosophy. Mr. Gardiner repeated that he felt the matter of rapport was more a matter of the individual filling the position than the salary that person is earning. He said that if that question is asked about the ombudsman (will the ombudsman be receptive and responsive to the needs of the clientele if there is a tremendous gap between incomes of clientele and the ombudsman) it ought to be asked about people in all of the positions providing services.

Mr. Parr said that he does think Ms. Buchholdt's concern is a valid one. However, he felt that on the other hand it is important, if the ombudsman is to be effective, that the person be operating out of position of strength in dealing with high level people; and if that position is a low-paid position, its importance and significance will be judged accordingly -- and so, its effectiveness will be threatened.

Sec. 24.55.080. OFFICE FACILITIES AND ADMINISTRATION. Mr. Gardiner said that this is one of the differences in the bill -- who is going to provide the office space. Some of the versions of the bill had the Department of Administration providing the space, and others, Legislative Council. He said that his committee decided on the Legislative Council because they are an arm of the legislature, and that although they may not be as capable because they have less office space, they felt it was a good idea to keep it with the legislature.

Sec. 24.55.110. INVESTIGATION OF COMPLAINTS. Mr. Gardiner said that in the original Senate and House bill, there was a subsection (4) which they deleted ("the complainant does not have a sufficient personal interest in the subject matter of the complaint") because they felt that there were significant other grounds for turning down a complaint. They felt that this provision required a value judgment. He said that there was an argument about (6) ("there are other complaints more worthy of the ombudsman's attention").

Mr. Gruening asked if this is similar to the provisions in the Hawaii statutes. Mr. Hall said that these provisions came principally from the Harvard Model. The Hawaii statute does not specifically deal with those bases for rejecting complaints. Mr. Hall said that the deleted subsection (4) mentioned above brought up the question as to how close to a situation a person ought to be before

bringing it to the attention of the ombudsman-- how far on the periphery should they be? He said that Mr. Parr had expressed his concern that someone on the periphery should be able to bring to the ombudsman's attention something that, perhaps for reasons of employment or other reasons, another person might not report; and yet having individuals without access to facts making complaints could severely impair the workings of the office. Mr. Hall said that he does not find specific reference to these procedures in the Hawaii statutes, and thought they might be established by regulation.

Mr. Gruening said that his one concern is that the ombudsman be given too many "outs" so that a reasonable case would not be taken care of.

Mr. Gardiner said that one of the things Mr. Doit, the Hawaii ombudsman, pointed out was that the ombudsman himself or herself would make final approval or recommendations on all cases. That person would be involved in every case as much as possible. Even if there are regional offices, all final decisions must still be made by the ombudsman.

Sec. 24.55.150. APPROPRIATE SUBJECTS FOR INVESTIGATION. Mr. Gardiner noted that (5) was changed. It originally said "unaccompanied by an adequate statement of reasons" and this was changed to "unsupported". He said that there was quite an argument over this workd. There was some feeling that "unaccompanied" might be construed to mean that administrative agencies would be required to set up all kinds of back-up on every decision they made.

Sec. 24.55.170. POWERS. Mr. Gardiner said that (c) of this section was totally deleted in the final Senate version of the bill. His committee amended it somewhat rather than deleting it altogether. It relates to the Ombudsman's ability to have access to confidential information. The key section is on line 19, page 6, "However, access to confidential items or information is subject to prior approval of the superior court or a federal court of appropriate jurisdiction." He said that this leaves it wide open. The ombudsman would have to go through the courts. It also provides that the ombudsman cannot disclose information required by law to be confidential.

Sec. 24.55.180. CONSULTATION WITH AGENCY. Mr. Malone asked about this provision, requiring that the ombudsman consult with an agency or person before giving an opinion or recommendation critical of that agency or person. He wondered about this provision in the case of the ombudsman

discovering criminal activity in the course of investigation. Mr. Gardiner said that he thought that by the very nature of this being criminal activity it would be turned over to the Department of Law.

Sec. 24.55.200. PUBLICATION OF RECOMMENDATIONS. Mr. Gardiner noted that the original bill did not include presentation of recommendations to the grand jury. This was included in this bill in consideration of cases in which there is definitely criminal activity.

Sec. 24.55.210. NOTICE TO THE COMPLAINANT. Mr. Gardiner said that here they picked up the language of the first Kerttula bill ----- this was at the recommendation of Dr. Anderson.

Sec. 24.55.250. IMMUNITY OF THE OMBUDSMAN. Mr. Gardiner said that the Immunity section is different. The original bills stated the same immunities as a judge of the state. The committee felt that was too extensive, so on page 8, line 11, the wording was changed. Mr. Malone asked if that statutory language is sufficient to accomplish its purpose. Suppose a person feels that something that the ombudsman said or did has seriously damaged them, are they foreclosed from any civil action? Mr. Hall said that they talked earlier today about questions of libel and slander. The purpose of this section is to prevent harrassment of the ombudsman, which is a reasonable objective. If, however, a person could demonstrate that the ombudsman had spoken or acted in a malicious manner so as to damage that person, that would not be considered in performance of the duties or responsibilities under this chapter.

Mr. Gruening said that as a practical matter, this is almost superfluous, because under a present Supreme Court ruling, those people criticizing public figures are not subject to libel or slander. It is pretty tough to get a judgment for that tort under present law. Mr. Hall agreed and said that the higher ranking the public official, the harder to get such a judgment.

Sec. 24.55.270. LETTERS TO OR FROM OMBUDSMAN. Mr. Malone asked what the purpose of this section is. Mr. Hall said that the purpose of this is to deal with the problem of penal correctional institutions. Because penal institutions and the Division of Corrections would be subject to the ombudsman's examination, this is to prevent examination of correspondence between a person held in custody and the ombudsman. Mr. Malone thought that this was already a fact of law, that all mail sent through the U.S. postal

service could not be legally opened except by the person to whom it was addressed. Mr. Hall said that opening mail is a fairly common practice in institutions, as he understands it. Mr. Cowper said that one supposed reason for this is security.

Mr. Malone brought up the subject of the confidentiality of information concerning a specific case, so as to protect a claimant. He suggested the possibility of, for example, a state employee making a complaint about a superior and, should the ombudsman report that fact to the superior, the employee might well experience reprisal. He wondered if perhaps there could not be provision that the ombudsman would be required to maintain secrecy about complaints except insofar as necessary to carry out the job. Mr. Gardiner thought this was a good idea. He asked Mr. Hall if he knew of any reason this was left out, and Mr. Hall said no. He, too, agreed that this would be a good idea.

Sec. 24.55.31). MUNICIPALITIES. Mr. Gardiner said that his committee chose to make it optional for a municipality to be covered under this act. The final version of the Senate bill mandates that they be included. He said that the feeling of his committee was that this should not be forced on municipalities.

Ms. Buchholdt asked if a municipality does elect to come under the jurisdiction of the ombudsman, can they later withdraw. Mr. Gardiner said that he would assume so -- if they have the power to join, they have the power to withdraw.

Mr. Duncan was concerned about just what is being opened up here. He feared that the job might be made so large and cumbersome that the budget would have to be greatly increased. Mr. Gardiner said that this is a policy question as to whether the state wants to take on this responsibility or not. He said that perhaps the state would want to make some provision as to payment from the municipalities to offset its cost.

Mr. Hall was asked what Hawaii has done. He answered that the case in Hawaii is very different. He said that there one finds very little home rule. It is a highly centralized setup, with little local government. 75% of the people are on Oahu.

Mr. Parr said that he was one of those on the Judiciary Committee who was opposed to the mandatory provision. He said that he does not believe the volume will increase as

much as might be feared, however, for two reasons. First is that on the local government level, people have pretty easy access to city councils, borough assemblies, etcetera, and so the problems is more with the state. Second, almost half of the people in the state live in Anchorage, he said, and Anchorage already has an ombudsman.

Mr. Duncan said that he was afraid that Anchorage might see the state provision as a great opportunity to reduce their budget and just let the state take over the responsibility and expense. He said that he is just wants to be sure that it is clear what the expenses involved are.

Sec. 24.55.320. DEFINITIONS. Mr. Gardiner said that under (2) they made another policy decision, and that was to include basically the judicial branch of government which, as Mr. Gruening earlier pointed out, is really a branch of government that people have a lot of contact with. Therefore, the committee decided that the administrative acts of the judicial system should come under the purview of the ombudsman. He said that they realized this might be opening the ombudsman up to a lot, but decided to do so.

Mr. Gardiner continued, stating that they decided to make a general policy of trying to exclude elected officials because they are up for examination and reelection or defeat on a regular basis.

Returning to the subject of municipalities, Mr. Gruening expressed his concern that, by inclusion in certain of the definitions under 320, that municipalities might be included under this act even if they did not opt to come in under the act. Mr. Gardiner said that that was not their intent. It was their intention that municipalities, their departments, agencies, etc., would not be included unless they opted in, and if they did opt in, their elected officials would not be included. Mr. Hall said that Sec. 24.55.310 controls municipalities, and that if they did opt in, it is their administrative acts that would be under the ombuds an, and would not involve such things as preparation of legislation. Mr. Hall said that one of the problems, though, in dealing with municipal governments is that you do not have three branches of government. Basically, then, the divison under the ombudsman would be that political or policy decisions would be excluded.

At this point there was some uncertainty as to whether judges were being included or excluded. Mr. Hall said that the judges are included. Mr. Parr said that the reason behind that is that judges frequently act as administrative

superiors to court employees and so they would be covered in their capacity as such.

Sec. 11.30.240. MISHANDLING OF PUBLIC RECORDS. Mr. Gardiner said that this relates back to the subject of confidentiality. This is the penalty provision. It makes the same penalties apply that apply to everyone else. Line 19, referring to AS 09.25.120 refers to certain records like adoption proceedings, tax records, etcetera, Mr. Gardiner said. Mr. Hall noted that anyone having access to these confidential records would have to have the authority of the court.

Sec. 5. Mr. Malone asked about the immediate effective date, and wondered if there was already someone lined up for the job as ombudsman. Mr. Gardiner said not as far as he knows.

Mr. Malone wondered about the Senate's having voted against the immediate effective date. Mr. Gardiner said that that was apparently because the motion included the court rule and the immediate effective date. It was the former that was probably being voted against, and not the immediate effective date.

Mr. Gardiner mentioned that both HCSCSSB 1 and HCSHB 45 are the same. They were both reported out of committee in case of a parliamentary "hassle".

Mr. Miller at this time spoke in support of the provision for the municipalities having the option of coming under the ombudsman. He said that the bill will make it easy for the council or assembly to vote to do so, and also for it to be done by citizen's initiative. He said that they thought that option ought to be available to any municipality that feels it has a problem and needs an ombudsman. He said that the question of payment is "grey". Later on the state may have to assess costs against those municipalities that opt in, but he said that he hopes, it will not be necessary. However, he said there is no way of knowing without trying. Having tried, the state will have some idea of the cost. He felt this is very important for people to have available to them.

Mr. Dale said that the Governor's Office received a letter from the Anchorage Borough Assembly Ombudsman, which states that there was a provision in the last election for questioning voters about their support of the ombudsman, and 73% said yes about wanting to have an ombudsman.

There was brief discussion about the deputy ombudsman, with the feeling expressed that perhaps during the first

year they wouldn't have to start out with this position unless it became absolutely necessary.

There was again some brief discussion about the cost of including the municipalities, and Mr. Duncan reiterated that he was not saying he was against the idea but was merely stating that he felt it important to have a realistic idea of the costs that are involved.

Meeting adjourned at 9:20 p.m.

ADJOURNED

HOUSE FINANCE COMMITTEE  
February 27, 1975  
8:35 a.m.

All members of the Committee were present.

PRESENT

In addition, Kent Dawson, Director of the Division of Budget and Management; Ron Lind, Division of Budget and Management; and members of a Juneau Community College Sociology class were in attendance.

Chairman Malone called the meeting to order and brought HOUSE BILL NO. 80 (An Act making a supplemental appropriation to the Department of Administration for increased costs relating to the contract for supervisory unit employees) up for consideration.

HB 80

Chairman Malone noted that Budget & Management had responded in written form to all of the questions which the Committee had asked.

Chairman Malone asked what the Committee wished to do with regard to the Bill, and Mr. Cowper suggested going into Executive Session before making a decision. However, other members of the Committee felt further discussion was necessary.

Mr. Duncan reminded the Committee that at their last meeting on the Bill they had reduced the amount to 90%, and he wanted an explanation of the vacancy factor and the effect of the reduction. Mr. Lind stated that funding at a 90% level would allow sufficient funding to pay everybody the increases they are eligible for. However, he was not clear as to whether they would adjust the contract down 90% or simply the funding mechanism. Because of the vacancy factor it would be possible to pay the increases with 90% funding.

Mr. Guy asked whether the cost of living allowance would be taxable under the new proposal, and Mr. Lind replied it would be taxable just like regular salaries.

Mr. Duncan wondered whether there was a long range plan for increasing salaries for State employees because of cost of living. Mr. Lind answered that he expected the Governor to introduce legislation along that line. Mr. Dawson also thought that some adjustment would probably be made to make cost of living raises automatic.

Mr. Haugen pointed out that there were three contracts they were going to be faced with before the session was over, and he personally felt they should hold off acting on the bill until they knew what the general pattern was going to be.

He added that he wouldn't hesitate to put the bill out with a cost of living allowance.

Mr. Lind pointed out that when they were talking about the general government Employees' new contract for cost of living allowance, it was 7% of this 15%, not the cost of living allowance spelled out in the \$216,0000 nor the \$816,000. The contract APEA signed last year included the cost of living adjustment for general government employees for February. In addition, the Governor was expected to give 7% for cost of living adjustment during the year.

Mr. Lind said that general government employees felt it unfair that the supervisors got a 15% raise, while they only got 7%. However, Mr. Lind said the first contract was administered in good faith, and there was probably more justification for giving supervisors more money than general government employees because there was more disparity between supervisory people than between the regular workers. The supervisors got an actual increase in pay because studies showed their pay wasn't in line with the rest of the pay scale.

Mr. Haugen questioned the fact that 40 people were getting more money than the Commissioner. Mr. Dawson pointed out that some of that number had to do with remote area differential pay.

Ms. Itta asked how hard it would be to get a list of the people and locations and how much they were making if it was more than the Commissioners or the Governor. Mr. Dawson said he could get that information for the Committee.

Chairman Malone referred them to page 86 of the minutes which recorded the motion which Naughton had made amending the Bill. The motion had carried unanimously.

Mr. Duncan said they had to keep in mind they were dealing with two separate and distinct bargaining units, and this was the first time through on negotiating for supervisory units, and this is the second time through for the general government unit. He didn't think they should tie the two contracts together because there were different figures and facts concerned with each case.

Mr. Duncan introduced the Sociology class to the Committee.

Chairman Malone called a short recess at 9:00 a.m.

RECESS

AFTER RECESS  
9:05 a.m.

Chairman Malone called the meeting back to order and stated that SB 80 was still under discussion.

HB 80

Mr. Cowper thought it would be in order at this point for the Committee to discuss and decide as a matter of policy what the role of the Legislature is in collective bargaining units. He wanted some input as to what was meant when the Act was passed. He wondered whether they were to take the agreements and regard them in the same way they would a court decision and appropriate the money, or whether they were to review the reasonableness of the agreement.

Mr. Haugen said that the only thing set out by statute right now is the cost of living allowance. The administrative branch can bring any kind of agreement to the Legislature, but the money to fund it is a responsibility of the Legislature.

Mr. Naughton said that when they had passed the Act, it had been his own thinking that the language that spoke to legislative review of the money was retroactive because there is no question that it is the power of the Legislature to set the level of spending. If in collective bargaining, the administration and the employees set the level of salaries so high that the State couldn't afford it, then the Legislature could cut the number of employees. It falls to the employees and the administration to make the judgment as to what level they can afford to pay salaries.

Mr. Lind admitted that without specific action saying the Legislature approved the concept of the contract, the administration would not make the payments. However, if they passed a resolution saying they approved the contract, but didn't add funding, then the administration would have to make cut-backs in staff.

Mr. Cowper asked whether it was the administration's position that if the Legislature didn't fund the salary raises that the agreement would not be in effect. Mr. Lind replied that the only part they would consider invalid would be the part with cost impact.

Mr. Cowper still felt the Committee ought to figure out what it was going to do about appropriation requests that arise from these contracts.

Mr. Duncan thought the policy had already been set. He asked

them to look back on what happened with prior contracts. The general government unit contract was funded at 90%, but the intent was the contract be carried out. The reduction was for vacancy levels. Mr. Duncan stressed that the administration should be charged with the job of hard collective bargaining. He added that he thought that was the way the contract was negotiated.

Mr. Cowper didn't feel they should be bound by the policy decisions made by last year's legislature and last year's administration. Mr. Duncan felt it would be wrong to change policy in mid-stream.

Mr. Gruening asked whether the Committee could request the Governor to give his position. He wondered whether it would be the same as Mr. Lind had given. He thought that maybe a letter from the Governor giving his opinion on what he feels the responsibility of the Legislature is would help.

Chairman Malone asked whether Mr. Gruening felt this question had to be answered before they could take action on the supplemental. Mr. Gruening said no, but he thought they ought to take the position that the Governor has the prime responsibility of coming up with the contract, and that the Legislature wasn't going back into the negotiations in depth, because the Act would be purposeless if they were going to do that.

Ms. Itta also felt the Legislature ought to come out with policy on its role in line with the statutes that were passed.

Chairman Malone noted that the Finance Committee couldn't set policy for the Legislature, but that they could recommend policy as a Committee.

Mr. Naughton didn't feel this was the time to write to the Governor asking for his position because he was in a "field of alligators" and had to be careful of what he said.

Mr. Duncan agreed that this was the wrong time to go to the Governor. He said the Legislature should stay out of what is going on between the administration and the employees. They should not interfere in any way.

Mr. Duncan also felt that policy should be set in caucus rather than in Committee.

Mr. Duncan then moved that HB No. 80 be put out of Committee. Mr. Naughton objected. He said there were a number of questions left unanswered regarding the bill, and that the bill needed more study, particularly in an area as important as employee salaries.

MOTION

2/27/75

Mr. Gruening asked Mr. Naughton what he thought the Governor's position would be, and was told it could only be "posturing".

At this time, Mr. Lind located the information on the two individuals who were earning more than the Governor. One was a Regional Psychiatrist, Range 27E, located in Fairbanks, and the other was a Range 27K located in Anchorage.

Mr. Duncan thought it would be unfair to penalize the rest of the supervisory group because of two very qualified people. He added that the administration should decide if these people were too qualified for the jobs they were doing.

Mr. Gruening called for the question. Chairman Malone reminded them of the prior motion which had carried reducing the funding across the board for vacancy. His recommendation was to pass the bill out as a Committee substitute, and he informed them it was his intention, if the motion carried to report the bill out, to have a Committee Substitute prepared for their signatures. The motion carried with the following representatives voting in favor: Mr. Duncan, Ms. Buchholdt, Mr. Guy, Mr. Gruening, Mr. Cowper, and Mr. Malone.

ACTION  
ON THE  
MOTION

The meeting recessed at 9:50 a.m.

RECESS

HOUSE FINANCE COMMITTEE  
Thursday, February 27, 1975  
2:05 p.m.

All members were present. Also attending was Jay Hogan, DIRECTOR OF LEGISLATIVE FINANCE. PRESENT

Chairman Malone announced that Mr. Haugen had drafted a Committee Substitute for HOUSE BILL 80: A Section 2 has been added that makes clear that the money is being appropriated to fund the increase but not to fund the vacancy factor. If it is not sufficient money will be taken out of the vacancy reserve. The Committee Substitute is being written by Legislative Affairs. Mr. Hogan reported that there was about \$25 to \$30 million in the vacancy reserve account. HB 80

The Committee Substitute for HOUSE BILL 80 was reported out of Committee with a majority "Do Pass" vote, Messrs. Haugen and Naughten opposed.

Mr. Haugen asked about getting a current figure on lapsed money that was later than 1974. He wondered if there were some way a lapse report could be obtained earlier, or if a lapse could be forced at July 1, instead of giving them 60 days to encumber funds. lapsed funds

Mr. Hogan said that two procedures are supposed to take care of this, but they have not been enforced in the past. There is kind of a freeze on erratic transactions the last two months before the fiscal year closes; the Division of Purchasing is to not honor orders that are out of line; Also, the books are supposed to close sixty days after the fiscal year end, but as a matter of actual fact they are not and the annual report is almost always late. The Committee might wish to issue a statement of legislative intent or a resolution saying in effect that the Committee is aware of these procedures and wish the administration to adhere to the procedures that are of record. Mr. Haugen felt that the Finance Committee should know on July 1, all the money in surplus; then get a report on money being encumbered.

There being no one to testify on behalf of HOUSE BILL 3, "An Act providing for dedication or acquisition of park, open space and recreation areas", it was held in Committee. HB 3

Committee Substitute for Senate Bill 1, HOUSE BILL 45 both dealing with the creation of the office of Ombudsman were taken under consideration at this time. CSSB 1  
HB 45

Ms. Buchholdt made a motion to prepare a Committee Substitute for these two Bills including the amendments from last night's meeting. Chairman Malone ruled the motion incomplete saying it was not a proper motion until the amendments were available for consideration. CSSB 1

In reviewing the suggested amendments the Chairman cited the requirement of confidentiality and secrecy of the Ombudsman. Mr. Duncan also felt that others besides the Legislative Council would want the opportunity of examining the person selected and wondered if this needed to be spelled out in the Committee Substitute.

CSSB 1  
HB 45

The Chairman thought that each house would handle the ratification separately, and that the Committee not change that part and presume that each House would have a hearing; or else put something in the bill to require that sort of mechanism; or have approval by means of concurrent resolution, then it would at least have to go to the Rules Committee.

Mr. Gruening moved to have the two amendments -- on the hearing procedure to nominate in the Legislative council and to insure confidentiality in the information given to the Ombudsman, and that the Committee direct Stu Hall to work this up properly. There was no objection, and it was so ordered that these amendments would be drafted and prepared in the form of a Committee Substitute. MOTION

The Chairman suggested that both bills should be reported out of Committee under a single recommendation, and in answer to Mr. Gruening's question on why, he stated that there was some question as to whether or not the Senate could recind their action on changing the court rule because they have already gone through the process once. He thought a free conference report could be adopted without any problem. Mr. Duncan noted that Rules would report only one out at a time; and if the Senate Bill failed, they could report out the House Bill.

Ms. Itta, referring to page 4, HSC CSSB, lines 17-18, asked who determined if a complaint was trivial or not; Mr. Naughton observed that the Ombudsman has to make that determination before he can decide whether it's worthy of his time.

(Mr. Cowper left the meeting).

Chairman Malone said they are trying to get a general outline of legislative intent to make sure that the person would use good judgement. Mr. Naughton pointed out that the bill used a lot of words to say that the Ombudsman will use common sense. Mr. Gruening commented that it also gave the Ombudsman six excuses if they tried to remove him from office.

Ms. Buchholdt suggested deleting all six items listed on page 4 HCS CSSB 1, because on page 5, under Appropriate Subjects for Investigation, the subjects listed are complementary. Chairman Malone thought that it might be a little short; that the Committee might want to put some sort of legal wording that would indicate the Ombudsman was supposed to use common sense. Mr. Duncan suggested that Stu Hall be directed to draft something that says this same thing but more concisely, that the Ombudsman will use discretion.

It was further suggested that perhaps something should be included under Se. 24.55.310, page 9, to allow for a local sharing by communities just in case this became necessary.

Mr. Duncan thought it might be let go for a year, then if the municipal or community problems substantially added to the staff or costs, amend this to allow them to share in the costs.

CSSB 1  
HB 45

There was discussion about the immunity of the Ombudsman to civil action, but the Chairman clarified that he is a creature of the Legislature and if he does not perform a function required by law, they can do something about it. The immunity basically prevents harrassment of the Ombudsman.

The salary of the Ombudsman was considered; Mr. Hogan told them that his salary would not change unless the statute was amended. Ms. Itta agreed that the position was very responsible, but agreed with Ms. Buchholdt that \$40,000 for a beginning salary was too high. Mr. Duncan felt that a \$10,000 reduction in his salary would not affect the total budget picture; that the first year of this position would be critical, and that \$10,000 might make the difference between getting a person who could do the job and one who could not.

Mr. Hogan read to the Committee the Statute set salaries which included the superior court judge; district judge; magistrates, governor, lte. governor; and commissioners.

Mr. Naughton stated that in his opinion to reduce this salary by \$10,000 would be a real mistake; that this man will have to stand up to commissioners and like people and must command their respect. This man should be operating from a base that gives him the confidence to confront these people. Ms. Buchholdt asked if the measure used should be the salary or the ability of the person. Mr. Naughton replied that if to spend \$30,000 is to waste the effectiveness of the office, it would be worth \$40,000 to get a good job done. He would rather see it paid at something higher than a commissioner.

Ms. Buchholdt moved that the Ombudsman be paid at the salary level of a district court judge (\$33,500) at least for the initial salary. Under discussion she said that the needs of his office must also be provided for, and he could not be effective if he didn't have money for his office. Mr. Naughton pointed out that these were two separate appropriations.

MOTION

The motion failed with five against, and three for, one member absent.

Ms. Itta asked where the travel figure of \$5,800 came from; Chairman Malone said that would be investigated and considered as part of the budget for next year. In answer to Mr. Gruening he said that a supplemental appropriation would supply funds if the office began functioning this fiscal year. He said that the amendments suggested so far would be drafted into the form of a draft Committee Substitute then the Committee would make a final edicing, then will decide whether to report this bill out of Committee or not.

Mr. Hogen made a comment on fiscal notes: One of the machine runs being produced is a list of bills with fiscal implications; this week two new entries appear on the bills with fiscal implications. The amounts of money shown are taken directly from the amounts supplied in the fiscal note. He commented that these notes are just a persons statement of what he thinks it would cost; and the Committee should sent them back or call people in if there is any question, because that is the number that will eventually be looked at by the Free Conference Committee. Unless the amounts are challenged, it will be assumed that the figure meets with the approval of the Finance Committee.

(Mr. Cowper entered the meeting).

Chairman Malone asked if it was normal procedure for the Finance Committee to look at fiscal notes, and Mr. Hogen remarked that usually when a bill was passed out of committee it was rarely looked at again. The Chairman stated the intention to look at all fiscal notes that have passed out of committee and consider them as part of the budget; that when the budget goes to Free Conference it will form the basis for their actions.

At Mr. Guy's request, the Chairman will obtain some index on the cost of living that will be useful in committee work.

Mr. Cowper announced a Revenue Sources Subcommittee meeting at 11:00 a.m., after session, with Sen. Huber's subcommittee in the House Finance Committee room.

Mr. Gruening announced the State-wide convention of the State Council on the Arts in Anchorage, and that federal funding is available to bring interested persons, especially legislators to Anchorage. This particular money is not being matched with any State money--only local projects are matched. Interested Committee members should contact him.

The Chairman announced a Committee meeting at 8:30 a.m., February 28, to cover HOUSE BILLS 4, 8, 9 and 141. If the information they requested is in they will take action. Next week probably one day will be devoted to legislation on the budget.

The meeting was adjourned at 3:15 p.m.

ADJOURN

HOUSE FINANCE COMMITTEE  
Friday, February 28, 1975  
8:40 a.m.

All members of the Committee were present. Also attend- PRESENT  
the meeting were Rep. Mike Hershberger, Rep. Keith Specking,  
Rep. Ted Smith, Cathy Jacobson, Department of Natural Re-  
sources and staff members Jim Rhode and Bob Grogan

HOUSE BILL 4 was under consideration, "An Act making a HB 4  
special appropriation (\$75,000) to the Department of Fish  
and Game to purchase real property within Potter Point State  
Game Refuge." Mr. Grogan, Fiscal Analyst, reported that  
there was enough in the Pittman-Robertson fund to cover the  
project, but that this would exhaust the funds for this year.

Mr. Haugen asked where the money had been spent, and Mr.  
Grogen answered that he thought the figure Rep. Hershberger  
had used was the total apportionment of the fund, not the  
balance. Rep. Hershberger stated he had been told there  
was enough for this program with some to spare. Mr. Haugen  
pointed out that they like to "play" with the money them-  
selves, and don't like the Legislators to get their "fingers  
into the till." He favored passing the bill out of committee  
just to test the air.

The Chairman asked Mr. Grogan what control the Legislature  
had in the past over those Pittman-Robertson funds, and was  
told that the Fish and Game budget would be reviewed as to  
the funds. Mr. Haugen commented that it is the Legislatures  
prerogative to decide where the funds go.

Rep. Haugen moved and asked unanimous consent to sent HB 4 MOTION  
out of committee. There was no objection; it was so ordered.

Cathy Jacobson, Department of Natural Resources was invited HB 8  
to testify on HOUSE BILL 8, "An Act creating the Palmer Hay  
Flats Game Refuge." The Chairman reminded the Committee  
that the question had been raised about the status of lands  
adjacent to the area, and the effect of the refuge on any  
private holdings that might exist within the area.

Ms. Jacobson stated that as the bill was written there are  
only state lands, not private lands included within the  
boundary; that school grant land and university grant land  
is excluded -- school grant means a 1/16 section of every  
township and range becomes school grant land. Everything  
outside the boundary shown is private land; there is some  
land under federal jurisdiction, but that is under application  
from the State--this may be affected by the Native land  
claims but will be included if it becomes State land.

Mr. Naughton moved that Resources Committee Substitute to MOTION  
House Bill 8 be reported out of Committee. Mr. Guy objected,  
and asked for a short recess. The meeting recessed at 8:55 a.m.

AFTER RECESS  
9:02 a.m.

The Chairman briefly capsulized the discussion during the recess: The Committee doesn't feel they have the information to be sure that page 2, lines 13-16 of the bill will insure that the right to selections will be protected under the Native land claims settlement act. He suggested that language could be included to do this. He also said that this could be checked out before the bill comes up on the floor and if there is serious conflict, send it back to the Committee, or amend it on the floor. Mr. Hershberger felt it would be to everyone's advantage to clear it up in committee. Mr. Gruening asked permission to draft an amendment at this time, while the Committee continued with other business.

HB 8

Mr. Naughton asked for permission to withdraw his motion; there was no objection; it was so ordered.

MOTION  
WITHDRAWN

HOUSE BILL 9, "An Act creating the Goose Bay State Game Refuge", was next for consideration. Ms. Jacobson also testified on this Bill. The Chairman asked if there was a status map that indicated private lands; that it was his understanding that these lands were all patented lands. Ms. Jacobson stated that these were excluded; that there had been one small change to designate the water area and now includes approximately five sections of the Knick Arm.

HB 9

She further stated that the original bill excluded private lands, but there was one parcel of private land within the boundary now, of about 300 acres. There is a road and Chugiak Power Electric has already established a line through the marsh. She was asked about maps showing what the lands were outside the boundary and replied that she understood the State Division of Lands was making them up.

Mr. Naughton, recognizing the pressure to get things out of Committee, thought it would be best to wait until the correct information was received as requested, showing to what extent there are private holdings within the boundaries and also the uses the people are putting their land to. Rep. Ted Smith stated that the private land was unaffected except by possible impairment of access, which is taken care of in the bill.

Rep. Gruening moved that HOUSE BILL 9 be reported out of Committee. Mr. Naughton objected. By roll call, the motion passed with seven for and two against, Mr. Naughton and Ms. Itta opposed.

MOTION

The amendment to HOUSE BILL 8 was read for consideration, beginning on line 13, page 2, "(b) Selections under the Native Claims Settlement Act (PL 92-203, 85 Stat. 688) are recognized as valid prior claims to the land within the area described in (a) of this Act. (a) may not include land patented under a Native corporation under that Act."

HB 8

Amendment

2/28/75

Mr. Gruening moved and asked unanimous consent to adopt the amendment to (b).

MOTION

In the discussion that followed Mr. Smith reported that the villages had filed their selections; that they had over-filed considerably. Under the Act they are entitled to five townships, and they have filed for about 100% more. This particular area was selected principally as a protective area--it is submerged land and not surveyable. Final adjudication by the B.L.M. will determine whether or not it goes to the village, and it will probably take many years before it goes to adjudication.

HB 8

The question was called for. There was no objection voiced to the motion; and the amendment was adopted by unanimous consent.

MOTION  
CARRIED

Mr. Cowper moved that the Finance Committee Substitute for House Bill 8, be reported out of Committee, including the previously adopted amendment. There was no objection and it was so ordered.

MOTION

Mr. Cowper announced that Mr. LaMont would meet with the Finance Committee in the Committee room at 1:00 p.m.

The Chairman announced a full Committee meeting at 2:00 p.m. this afternoon.

With apologies for the oversight to those appearing to testify on HOUSE BILL 141, the Committee took this bill under consideration.

HB 141, "An Act expanding the Caines Head State Recreation Area." Mr. Smith reported that this is a small area south of Seward; the original recreation area was authorized some years ago. There is a consultant study in for development and they have recommended trails and roads, access to the glacier and beach. The lands involved are all State lands not subject to native claims. The fiscal impact would be to make more federal money available for future development.

Chairman Malone asked about the federal land included; Mr. Smith said this was in the original bill passed two years ago. The additional acreage has no private holdings, and there appears to be no one particularly interested in the land. The 200 plus acres of federal land, Mr. Smith was reasonably certain was the lighthouse reserve on the point.

Mr. Duncan moved to report House Bill 141 out of Committee. There was no objection; it was so ordered.

MOTION

The Chairman explained to the Committee that while he was infavor of a "do pass" recommendation on HB 8, he signed the report as not concurring because he agreed with the minority that the correct information had not been received.

HB 8

There was a brief discussion of the scheduling of HB 26, finally scheduling it for the Committee meeting this afternoon.

The meeting was adjourned at 9:45 a.m.

ADJOURN

HOUSE FINANCE COMMITTEE  
Monday, March 3, 1975  
8:45 a.m.

All members of the House Finance Committee were present. The following people were also in attendance:

PRESENT

Representative Nels Anderson  
Representative Ted Smith  
Sumner Puttman

Chairman Malone called the meeting to order and brought up for consideration HOUSE BILL 26 (An Act authorizing the creation of regional electrical authorities).

HB 26

Representative Jim Duncan mentioned that to date all efforts to improve electric service in rural areas of the State have been made by the Tlingit-Haida Regional Housing Authority. He mentioned further that A.V.E.C. had been contacted twice and has shown little interest in the bill. Also, requests for comments were sent out last Thursday, February 27, to all of the native associations listed in the statute. A. F. N. was asked for input, but so far, their statements have not yet been received.

Copies of letters and responses from various organizations and government agencies were read to the committee (See Bill File). In brief, the following responses were received concerning the bill:

1. AFN, Roger Lang - approves.
2. Alaska Village Electric Cooperative - adopted a resolution dated September 10 approving and endorsing Tlingit-Haida to have a comprehensive study done.
3. SEACAP - adopted a resolution of endorsement.
4. Nashagak Electric Cooperative - they had three criticisms:
  - a. They think the establishment of a regional electric authority will cause infraction on responsibilities already established.
  - b. The bill does not make a provision for electrical expertise.

In answer to this criticism, Mr. Duncan pointed out that such expertise is presently on the staff.

- c. No utilities were included on the mailing list dated January 31 and signed by Bob Bradley.

Representative Nels Anderson addressed the Committee on these criticisms. He stated that he had spoken with Mr. David F. Bouker who had written the letter. He explained to Mr. Bouker the reason why it may appear that the mailing list was directed to only Native Associations is that there is a bill in house authorizing regional housing authorities. As far as possible

confusion is concerned by adding another association, this is not valid. The bill was not designed to create confusion. Mr. Bouker agreed on this.

5. Governor Hammond - sent a letter acknowledging receipt in his office of a copy of the legislation and its referral to C&RA for their study and comments. C&RA apparently have no comments. Copies of the letter were sent to all the Mayors in southeast Alaska.
6. Bureau of Indian Affairs, Alaska Region, Joseph E. Kahklen, Acting Area Director - letter endorsing the concept and offering help.
7. U. S. Department of Agriculture, Washington D. C., David A. Hamil, Administrator - letter endorsing the bill.

Representative Duncan stated he has also received copies of the minutes of the House Commerce Committee on this bill which were sketchy. Mostly, the minutes indicate that the bill is good and the only suggested requirement would be to assign an effective date.

Representative Duncan further stated that he had requested Tlingit-Haida to send out telegrams to the Native Corporations and to AFN for comments. There hasn't been any responses from any of the Native Corporations, and they have all had copies of the legislation since early December.

Representative Guy inquired as to whether or not the bill had been reviewed to determine the legal use of its language. Representative Duncan answered that it has not been reviewed word for word. He also mentioned that he did not believe that it was the Committee's function to review all bills in this manner.

Representative Buckholdt informed the Committee that over the weekend she went to a meeting on the construction of SOS schools. One of the things the Commissioner mentioned was that they will contact Regional Corporations, municipalities, and city boroughs for contracts. She wondered why not have this bill and others of the same context operate under one umbrella instead of having different contracts for each authority. Representative Duncan answered that in this case there wasn't any contract. This bill is establishing the authority. It allows the setting up of bonding and the offering of securities to provide funding. They do have a substantial financial commitment in D. C. if this act can get things underway in southeast. They are looking to using Federal funds.

Representative Duncan mentioned that the situation in Hoonah and Kake wasn't good. There is new housing going into those communities, and the electrical facilities are not good. The community doesn't have equipment nor do they have power maintenance for equipment; they do not even have enough fuel. Each village has their own electrical equipment.

Representative Haugen made an inquiry as to what the money from Washington D. C. represented, loans or what. Representative Duncan didn't know. Representative Haugen went on to state that money could be borrowed from R.E.A. at 5%, but a feasibility study would be needed. Possibly money could be obtained from State Revenue. In order to borrow money, light bills would have to be collected in the community. Tlingit-Haida would have to

put together a group to do this.

Representative Duncan said Bob Loescher did indicate that he wanted to talk to the Committee.

HB 26

Chairman Malone brought up the subject of the technical language of the bill. Referring to page 1, lines 27-29 "There is created with respect to each of the associations named in AS 18.55.996(a) a public body corporate and politic..." He wondered what the difference was between these last two terms. As far as Representative Duncan knew, they meant the same. Representative Cowper said there was a lot of statute material relating to political subdivisions regarding state taxes such as in the borrowing statute. There might be 600 different statutes relating to a political subdivision of the state.

Chairman Malone asked if the subdivisions of the state were constituted of boroughs, municipalities and such. Representative Duncan answered it was any subdivision made by a statute. He remarked further that to get into the legal questions the Committee would have to call in legislative counsel for answers.

Representative Cowper expressed his concern that the language would limit the action of the authorities rather than expand them.

Chairman Malone asked Mr. Duncan to get a clarification of the language in question before the bill is taken up on the floor.

Representative Haugen asked if they could borrow money from the State. Jim Duncan answered that there was no pledge of State credit, however, the State could provide a loan.

Chairman Malone wondered, since the association is authorized to form an electrical authority subject to certain limitations, how is the authority governed? was this described in the Articles of Incorporation? Representative Duncan answered that there was a Board of Commissioners set up. The commissioners appointed the chairman of the board. The board has authority such as hiring and firing.

It was pointed out that on the second page of the bill, under Title 18, Subsection (b) the regional electric authority has jurisdiction as determined by the governing body of the association. Going back to housing authority, this language is new; they can expand their authority beyond the present limit by resolution. Representative Duncan answered that the governing body of the association has to get the permission for the authority to operate and give boundaries. Representative Gruening said this apparently allows them to expand beyond the present operating areas. Representative Duncan said they cannot operate outside the boundaries of the association. They would come into conflict with other associations. He stated that the Commerce Committee has suggested amendments.

It was asked if Tlingit-Haida would have all the managing people in Juneau. Representative Duncan replied they would have both technical assistants and a management team here in Juneau.

Representative Guy referring to page 3, line 9 concerning estate taxes, stated that last week he asked for an explanation of the term. He never received an adequate explanation, therefore, he moved and asked that the words "and estate taxes" be deleted.

HB 26  
MOTION

Representative Duncan said the Committee knows what inheritance and estate taxes mean here. Before deletion, the Committee should get more information. An attorney needs to explain why the words are included.

Representative Cowper answered that what the statute does, it provides that anybody who buys bonds, interest on bonds are tax exempt except where someone dies. If a man has \$20,000 worth of bonds and the bonds are transferred to his son, there is a State death tax that is payable. Payment is not on income. Payment is on the whole transfer of dollars.

Motion  
Withdrawn

At this point, Representative Guy withdrew his motion.

Brenda Itta asked, for clarification, if page 2, section 3 meant that if a regional electrical authority formed in say Nana, for example, and A.V.E.K. was the main provider, would this allow A.V.E.K. to transfer everything into Nana? The answer was yes, the same would pertain to municipalities.

Representative Gruening asked Jim Duncan if he thought the villages and the associations have had time to respond with comments on the bill. He wondered if one week was enough time. Jim Duncan thought that they had enough time since a draft of the bill was mailed out in early December. There was a meeting in Wasilla and the bill was brought up then. It was a RurAICAP meeting and all of the State was represented.

Representative Naughton moved and asked unanimous consent that a Committee Substitute for House Bill 26 be prepared incorporating the suggested amendments of the Commerce Committee. There was no objection, it was so ordered.

MOTION  
Motion  
Carried  
MOTION

Representative Naughton then moved that the Committee adopt the following amendment to the Committee Substitute to HB-26:

Page 11, line 25 insert:

Immediate effective date

There was no objection, it was so ordered.

Motion carried

Representative Naughton moved that House Bill 26 be replaced with a Committee Substitute for HB-26 and that the Committee Substitute for HB-26 be moved out of Committee with a DO PASS recommendation. All members voted in favor of the motion with the exception of Senator Gruening. The motion passed.

MOTION  
Motion  
Carried

Chairman Malone assigned Representative Duncan to carry the bill on the floor.

At this point the committee took up the budget.

HOUSE FINANCE COMMITTEE  
Monday, March 3, 1975  
7:15 p.m.

All members were present with the exception of Representatives Gruening and Guy. Also present was Terry Dale from the Office of the Governor; Wayne Weeks of Budget and Management; Stuart Hall from the Legislative Affairs Agency; Director Jay Hogan of Legislative Finance; and staff. PRESENT

Chairman Malone called the meeting to order and announced that the committee would again consider COMMITTEE SUBSTITUTE FOR SENATE BILL 1 and HOUSE BILL 45 (Ombudsman). The committee had before them several amendments that were the produce of earlier meetings and which had been drafted up by Mr. Hall at the direction of the Chair. In addition to the three amendments suggested by the committee (possible use of concurrent resolution to approve or remove the ombudsman; confidentiality or secrecy with respect to witnesses or complainants) there were three amendments suggested by Legislative Counsel. CSSB 1  
HB 45

The first amendment reads:

On page 1, line 23, after "approved by", insert:  
"a concurrent resolution adopted by"

This is the provision that appointment be approved by concurrent resolution. Ms. Buccholdt said that although she had no quarrel with the provision, she wondered about the reason for the 3/4 vote for approval and 2/3 for removal. Mr. Malone said that he thought the reasoning behind that was to make sure there was participation by any possible minority.

In discussing the Finance Committee's proposed amendment, Mr. Malone said that he had understood the committee's wish to be that approval be by concurrent resolution rather than by a roll call vote. Mr. Duncan said that the concern was to give everyone a chance to examine the person before voting on the floor. Having a concurrent resolution would give everyone a chance to at least sit in and listen to discussion on the person, since presumably the resolution would have at least one committee referral.

Mr. Malone referred to page 174 of the minutes, in which Mr. Duncan had mentioned that probably persons other than Legislative Council would want to examine the candidate, in response to which Mr. Gruening had moved that Mr. Hall

draft up language in the form of a proposed committee substitute to include provision for such examination by persons other than Legislative Council. Mr. Malone pointed out that the language was not very specific and from other committee discussion, this is what they came up with.

Mr. Haugen asked how many states have an ombudsman. Mr. Hall said that three have an ombudsman performed "across the board" (Iowa, Nebraska, Hawaii); and several states have an ombudsman strictly for correctional institutions (Minnesota and Connecticut are two of these) or other limited purposes.

Mr. Duncan asked if a concurrent resolution is always referred to a committee for hearing. Mr. Hall said that it usually is but does not have to be. Mr. Duncan feared, then, that the concurrent resolution route would not necessarily accomplish their purpose. Mr. Hall said that he would suspect that if there was a resolution to appoint the ombudsman, the Council itself would introduce it and at that point it would be referred to committees. Mr. Hogan noted that once it was on the floor anyone could make a procedural request that it at least be referred to State Affairs.

Mr. Malone suggested another amendment spelling out the provision for hearings. Mr. Hogan suggested that the language might be inserted to provide for hearings before appropriate standing committees. Mr. Duncan thought that this would be a good idea. Mr. Mr. Hall pointed out that the legislative auditor's appointment was referred to the finance committees who then conducted hearings. Mr. Hogan said that he suspected Mr. Duncan might be right, however, noting that although the House Finance Committee did hold hearings on the auditor, the Senate did not. Mr. Duncan said that they would want to specify hearings before each house.

Ms. Buchholdt wondered if the Council nominated someone and the legislature failed to confirm that, what procedures would be followed, and Mr. Malone said that the Council would then nominate someone else.

There was discussion on where to put the requirement for hearings in the bill. The suggestion was made that if there were hearings, then the nomination could be approved by the 3/4 roll call vote as set up in the Judiciary bill.

Mr. Hall suggested language to read:

The appointment of a person nominated as the ombudsman by the legislative council

(1) shall be considered in hearings before the appropriate standing committees of each house; and

(2) is effective if his candidacy is approved by a roll

call vote of three-fourths of the members in each house of the legislature entered in the journal.

Mr. Duncan so moved and asked unanimous consent. There being no objection, it was so ordered.

MOTION

The second proposed amendment was the removal provision. This provides for removal by concurrent resolution, and also adds the wording "entered in the journal" following "house" on line 28 of the Judiciary substitute. Ms. Buchholdt moved to insert amendment number two as submitted and there being no objection, it was so ordered.

MOTION

Mr. Malone explained that the third amendment deals with the confidentiality of the complainants and witnesses coming before the ombudsman. This is on page 5 of the bill, under Article 3 - Investigations. Mr. Hall said that the language of the proposed amendment is verbatim from the Hawaii statutes, except that the word confidentiality is substituted for secrecy.

Mr. Naughton asked if there might be a case where confidentiality would work to the detriment of the office. In other words, might there conceivably be a case where such a provision might "hamstring" the ombudsman. Mr. Hall said that the language provides for confidentiality "except insofar as disclosures may be necessary to enable him to carry out his duties and to support his recommendations."

Mr. Naughton wondered about a case in which a claimant might deny having brought a complaint to the ombudsman. Mr. Malone said that he would say if it wasn't covered by the necessary types of disclosures, that a person could deny having brought a complaint and the ombudsman would not be in a position to divulge information to the contrary.

Ms. Buchholdt suggested that perhaps in the form that they fill out when making a complaint, a complainant's permission to disclose information could be given. Mr. Hall said that a substantial amount of work comes in over the telephone, however.

Mr. Duncan moved for adoption of amendment #3. There was discussion on the motion, Mr. Naughton asking Mr. Hall if this provision will not do violence to the ability of the ombudsman to report to the governor, legislature, public, grand jury; and Mr. Hall said that he does not think so.

MOTION

Discussion completed, there was no objection to the motion and so it carried unanimously.

Rep. Itta, referring to page 174 of the minutes, noted that after discussion, Mr. Duncan had suggested that Mr. Hall be directed to draft something stating that the ombudsman will use discretion in selection of complaints for investigation. There is, however, no recommended amendment incorporating that idea. Mr. Malone said that he and Mr. Hall were unable to formulate an amendment in legal terms, and so what he said he would like to do is consider the additional technical amendments recommended by Legislative Council before returning to discussion of this subject.

The fourth amendment is on page 2, line 3, after "office" insert: ", if the municipality is subject to the ombudsman's jurisdiction under sec. 310 of this chapter". This language was suggested because the first part of the sentence, the prohibition on becoming ombudsman if holding or running for an office is limited to national, state, and municipal if the municipality is subject to the ombudsman's jurisdiction. Mr. Duncan wondered if perhaps that language shouldn't be struck from the first part of the sentence rather than adding it to the second. He said that part of the concern was that the ombudsman's office not be used as a political springboard and so he was not in favor of seeing the language added. Mr. Hall mentioned that there had been discussion about whether these prohibitions should be directed at the whole office staff or just at the ombudsman and they finally decided on the ombudsman. Mr. Duncan moved that the phrase "if the municipality is subject to the ombudsman's jurisdiction under sec. 310 of this chapter" be struck on lines 1 and 2, page 2. There being no objection, it was so ordered.

MOTION

Mr. Malone explained that Amendment #5, page 7, line 21, adds the word "or a person" after the word "agency". Mr. Malone said that it appeared to him that it might be important to make it clear that the ombudsman will give a person some time after making his/her recommendations.

Mr. Haugen was concerned about the time involved in reporting back, and discussed possible similarities between this proposed agency and Legislative Audit. He said that he is not in favor of this legislation, but if it does go through and becomes law then he would hope to see it as effective as possible. In order to be effective he said that he feels reports must be made to the legislature. He was afraid, as Mr. Malone re-phrased it, of results of investigations being "swept under the rug". Mr. Hall said that the ombudsman is authorized to go directly to the agency, and also must report back to the legislature - these are intended to occur roughly simultaneously. Mr. Malone said that the purpose of the

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amendment is partially for consistency. He noted that under "Consultation with Agency" which is Sec. 24.55.180, the words "agency or person" are used and the thinking was that perhaps it would appropriate to carry that through to this section.

After further discussion, Mr. Malone pointed out that in the Definitions section, an employee or member of an agency acting or purporting to act in exercise of official duties is defined as an agency. Therefore, he thought that this amendment might not be necessary.

There being no further discussion on Amendment 5 and no motion, the committee next examined Amendment #6. Mr. Malone said that it was his recollection that during discussion in an earlier meeting the committee had expressed its concern that were the ombudsman to avail him or herself of all those excuses for not taking a case, the ombudsman could end up doing nothing. He said that he had discussed this with Mr. Hall and could not come up with language any more succinct than was already in the bill. Therefore they do not have an amendment prepared to take care of that. In fact, what Council recommended was the addition of the (4) provision which the House Judiciary substitute had deleted.

Ms. Itta was concerned about (4) in the Judiciary substitute, which reads "the complaint is trivial or made in bad faith;", and about (6) which reads "there are other complaints more worthy of the ombudsman's attention". She said that she considered no complaint unworthy. She moved that those two phrases be deleted. Mr. Malone requested that the motion be divided and she had no objection to that.

MOTION

During discussion on the motion the comment was made that perhaps all of the specific numbered provisions could be deleted. Mr. Hall said that the Hawaii statute makes no mention of bases for refusing to investigate complaints. He said that it must be understood that they will not be able to investigate every complaint received, and will have to create some kind of priorities. What this section effectively does is to provide the ombudsman with some kind of statutory basis for declining to undertake an investigation. Otherwise, Mr. Hall said that he feared that the ombudsman could be charged with arbitrary or capricious judgment. He felt this was a protective measure and that omitting it would leave the ombudsman "up the creek without a paddle" as far as investigation of all complaints. He said that he does not know how it is handled in Hawaii. Other states have such provisions, however.

Mr. Naughton said that he can understand that there are

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problems with people who become vexatious litigants.

Mr. Malone pointed out that under sec. 150 of the bill, Appropriate Subjects for Investigation, there is language defining appropriate subjects for investigation. He felt that should a case not come under any of those listed subjects, the ombudsman would have the legal authority to refuse a case. He said that that provision is such that he can understand how Hawaii does without the specified reasons per sec. 110.

Ms. Itta said that she really feels strongly about her proposed amendment. She said that her fear is that someone from a small village or someone in a city, but not sophisticated in the ways of bureaucracy's, might have a very valid complaint but that the ombudsman would be able to call it trivial. She is afraid that the "little person" will be cut off.

Mr. Cowper said that he thinks those provisions have to be taken care of in the selection of the ombudsman. He felt that the ombudsman could be committed to certain directions and attitudes during the appointment hearings. He said that he, too, is familiar with the problems of vexatious litigants and said that if the ombudsman were required to investigate every single complaint, the office could not possibly run effectively.

Mr. Naughton said that he thought what Ms. Itta was talking about, and something that was also a real concern of his, is the person who does not have access to resources to seek redress, particularly in rural areas, that are available to people in larger cities. He said that he would like to see some language directing the ombudsman to give priority to areas not have other recourse.

Ms. Buchholdt spoke in support of elimination of the phrase "trivial or" in (4). She commented, however, that she felt item (6) probably was worth keeping. She thought that maybe it would counterbalance the rest of the section.

Question was called and there being no objection, the motion carried unanimously.

The committee (temporarily skipping over the second of Rep. Itta's amendments) took a look at the sixth amendment as proposed by Legislative Council. Mr. Hall said that Council felt very strongly that this provision was important ("the complainant does not have a sufficient personal interest in the subject matter of the complaint"). Mr.

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Naughton said that in other words, "it has to be your ox who is getting gored". Mr. Hall applauded Mr. Naughton's pithy remark, stating that that was precisely the point. He said that they do not want the ombudsman relying on hearsay.

Mr. Naughton moved and asked unanimous consent for adoption of the proposed amendment in its entirety (includes renumbering of the other paragraphs). Mr. Malone objected. He stated that there are a lot of potential cases that would deal with cases that don't necessarily directly affect the complainant. He said that a lot of cases don't necessarily directly affect a complainant. He said that he thought sometimes someone might note that something is contrary to the law, but would not be immediately affected by it. If a state employee was discourteous in the line of his/her work, a person might be aware of this and also be aware that the people who that person dealt with did not know they had any recourse, and so desire to report that situation to the ombudsman. He said that, as another example, were someone stealing from an office that would be something that a person might want the freedom to report this to the ombudsman. Mr. Duncan said that in that particular case, he would assume that any taxpayer might be assumed to have a direct personal interest. Mr. Hall pointed out that there is no word "direct" in the amendment; this is a matter of degree.

MOTION

Mr. Cowper expressed his feeling that the language ought to be in there. He said that he thinks it is necessary to help keep the caseload at a reasonable level. He remarked that there is precedent for requiring personal interest, and that is in the legal system in which someone not having personal interest or not being personally affected does not have legal recourse.

Mr. Malone withdrew his objection to the motion and so the motion carried unanimously.

Reverting to her previous motion (the second part of the divided motion) Ms. Itta moved that paragraph (6)(lines 20 and 21) be deleted. She restated that she believes all complaints are worthy of the ombudsman's attention.

MOTION

Mr. Duncan objected, and on vote, motion carried, 4-3, Reps. Duncan, Haugen and Malone voting no.

Mr. Malone asked if there were further amendments. Mr. Hall said that Mr. Peterson, from the Attorney General's Office, requested that the committee consider an amendment on page 9, under Sec. 310, and said that it was Mr. Peterson's

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feeling that since provision is made for municipalities, by ordinance, to come under the jurisdiction of the ombudsman, provision should also be made for them to take themselves out from under that jurisdiction by the same method.

Ms. Buchholdt moved to delete that entire section on municipalities. Mr. Naughton noted that then several other areas of the bill would have to be deleted. Mr. Malone pointed out that, because of the definitions section, this would automatically bring all municipalities under the jurisdiction of the ombudsman rather than eliminating provision for inclusion. MOTION

Ms. Buccholdt withdrew her motion.

Ms. Itta mentioned that when the municipal code was passed it was based on the idea of local control and people "doing their own thing". She said that it seems to her if municipalities are included under the jurisdiction of the ombudsman that that would create some friction.

Ms. Buchholdt said that her fear was, after reading a memo from the Anchorage ombudsman and the tremendous workload he has, that should municipalities come under the jurisdiction of the ombudsman, that the state ombudsman would be overwhelmed by borough problems as well. She referred to Mr. Duncan's earlier suggestion that there be some kind of local sharing by communities electing to come under the ombudsman, and she thought that should be considered - perhaps on a sliding scale basis.

Mr. Cowper agreed and said that he was afraid Anchorage would dismiss their ombudsman when the state ombudsman was available and so that workload would be added to that of the state ombudsman. He said that he feels the ombudsman will have enough to do within the state without including the myriad of municipal problems that are bound to surface.

Mr. Duncan said that he had this same concern about including the municipalities and thus overwhelming the ombudsman with problems, but said that he saw a couple options. One is to leave the language as it is and to monitor the program as closely as possible and to amend the statute if necessary at a later time. The other option would be to put in a fee scale, perhaps exempting communities below a certain size since smaller communities might find it difficult to contribute. He said that he would personally prefer to leave the bill as it stands.

Ms. Buchholdt said that there was a potential problem there, if municipalities elect to come under the jurisdiction

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while there is no charge and then the state comes in in another year with a payment requirement.

There was continued discussion on this subject and on the provision that municipalities be allowed to remove themselves from the jurisdiction of the ombudsman by ordinance. Mr. Naughton asked if the removal provision is not implied already, and Mr. Hall said that he thought so but that Mr. Peterson had disagreed.

Mr. Haugen moved to eliminate sec. 310. Mr. Malone again pointed out that this would place all municipalities under the jurisdiction of the ombudsman rather than none, as he understood the intent of Mr. Haugen's motion to be. Mr. Naughton moved to amend the motion to include all other provisions relating to the municipalities coming under the jurisdiction of the ombudsman (Mr. Hall to draft up appropriately). Mr. Haugen agreed to the amendment.

MOTION

AMENDED

There was discussion about possibly eliminating reference to municipalities in sec. 030 of the bill (Qualifications, Prohibition against Political Activity) and Mr. Duncan expressed his very strong feeling that these references to municipalities be included in the bill. He said that it was his impression that the intent of these provisions was that the ombudsman not be able to use this office as a political springboard for any and that he felt this should include municipalities. References to municipalities in Sec. 320 (Definitions) on line 24 of page 9 and (3) on page 10 would be deleted along with sec. 310.

Meeting recessed at 8:50 p.m.

RECESS

AFTER RECESS

8:58 p.m.

Chairman Malone called the meeting back to order.

Returning to discussion on the motion, Mr. Duncan said that he realizes the fiscal implications of including municipalities, but he was bothered by the fact that many smaller communities throughout the state have problems in relationship to their municipal governments, and they don't know where to go. A person in a rural community does not necessarily have the expertise to know how to deal with a problem and he was interested in providing these people with someone to turn to. He said that he is opposed to the amendment on the basis that many smaller communities would benefit from being under the ombudsman.

Mr. Cowper said that he thought that at least a partial

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answer to that he thinks most of the problems that smaller communities have are related to state government rather than to municipal governments (with the possible exception of the North Slope Borough) and of course those problems are under the jurisdiction of the ombudsman. He said that he feels the municipal problems should really be up to the municipalities themselves. He repeated that he feels municipalities should not be included in this act.

Mr. Haugen called for the question, and on vote the motion carried, 5-2.

Mr. Malone asked if there were any other proposed amendments. Mr. Naughton proposed an amendment on page 4 under the Investigation of Complaints to try to balance the inequity existing where people in rural areas have less opportunity for recourse than people who live in towns, somehow stating that the ombudsman will give priority to complaints coming from areas without ready access to redress.

Mr. Malone asked where that language would be inserted. Mr. Naughton suggested under sec. 150. Mr. Malone did not feel that that would be appropriate. Mr. Hall suggested making two sections under Investigation of Complaints - (a) under which the reasons for not investigated would be listed and (b) under which this concern would be "spelled out". The language could read something like "the ombudsman shall give priority to complaints emanating from communities with limited access to modes or means of redress".

Ms. Itta said that her original concern on this was that the ombudsman has statewide responsibility but that is going to be difficult given the lack of a good statewide communications system.

Mr. Haugen said that he could understand that concern. However, he stated that the main reason he is opposed to this bill in any form is that he believes that the legislators are supposed to act as ombudsmen. He said that he thought trying to add something about the language barrier in the bill would clutter it further, and he suggested that if the bill passes and there are problems, it could be amended.

Mr. Malone suggested that perhaps it would be a mistake to talk about a "disadvantaged" community in terms of this bill and that it would be more appropriate to talk in terms of a disadvantaged person. He said that he felt there is justification in giving higher priority to a person not understanding the system and with nowhere to go for redress. He said that there is real justification for helping the people

who need help the most.

Mr. Cowper raised two points. One is that with an amendment giving special consideration to remote areas, he felt that the bill would have considerably more difficulty being passed. Second is that he very strongly felt that issues such as placing this kind of priority should be cleared up with the person who is appointed to this position. He felt that this could be determined during hearings on the candidate.

Mr. Naughton reiterated his concern, stating that if the ombudsman is located in an area like Juneau or Anchorage, where people have access to agencies and people in government, then those people have some remedy or redress; however, someone in a remote area does not have that remedy and so Mr. Naughton felt that their complaints should be given priority.

Mr. Malone pointed out that there is also a potential problem of the ombudsman "going after headlines".

Ms. Buchholdt returned to her concern about the language barrier. She attempted to formulate an amendment including but on straw vote, there was insufficient committee interest and so no amendments were proposed.

Mr. Cowper moved that the language on page 2, beginning with "The" at the end of line 12 and extending through "chapter." on line 16 be deleted. Mr. Malone objected. Ms. Buchholdt amended the motion to include additional language but withdrew her motion. Returning to the original motion, then, on vote the motion carried, 6-1, Mr. Malone opposed. MOTION

Ms. Itta asked about lines 16-18 on page 2, and wondered about its necessity. She said that every citizen is entitled to those rights (expressing private opinion, registering as to party, or voting) and did not know why they needed to be stated. Mr. Hall said that that language was taken virtually verbatim from the existing language with respect to legislative staff. He said that there is some degree of parallel between the ombudsman's office and the legislative staff (Legislative Affairs, Legislative Finance, and Legislative Audit). He said that they recommended this language because some question did arise during the last campaign about whether political contributions were a registration of private opinion. The language in the bill states that members of the ombudsman's office would not be able to make political contributions. Other than that, the language is identical to what is provided for the legislative staff.

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Ms. Buchholdt moved to delete part of line 10, beginning with "not join ..." and ending with "limited to the" and changing the word "making" to "make" so that the sentence reads "The ombudsman and members of his staff may make political contributions." Mr. Naughton thought that if the other provisions in that section were deleted, they might as well delete that whole subsection. Mr. Malone pointed out that the first sentence of the subsection talks about the nonpartisan nature of the office, so the rest is just how far the committee wants to go in limiting. Mr. Duncan objected to the motion. Mr. Cowper noted that this amendment would allow the ombudsmen to even be a campaign manager for a candidate and he questioned the wisdom in that. On vote, motion failed 1-6, Ms. Buchholdt voting in favor.

Mr. Duncan moved that the amendments which had been adopted be incorporated into a committee substitute and that the bill be reported out of committee. Mr. Naughton objected. Mr. Duncan said that he thought the bill should be brought to the floor so that the entire body could go over it. On vote, motion carried, 4-3, Reps. Cowper, Naughton and Malone opposed.

Mr. Malone suggested, since the bill had been substantially amended, that the committee hold action on the bill until they had the committee substitute before them. Mr. Duncan was afraid of what would happen if the committee again took a look at the committee substitute and started making further amendments. He felt that the committee had examined the bill sufficiently already. Mr. Malone said that they would have the committee substitute prepared and then bring it back before the committee, with the understanding that no further amendments would be entertained.

Meeting adjourned at 9:42.

HOUSE FINANCE COMMITTEE  
Wednesday, March 5, 1975  
8:42 a.m.

All members of the Committee were present. Also attending were Representatives Charles Parr and Fred Brown, and Stu Hall of Legislative Affairs, and Staff member Bob Grogan.

PRESENT

The Committee first considered Finance Committee Substitutes for CSSB 1 and HB 45, "creating the Office of Ombudsman." See bill file for the list of amendments drawn up on Monday March 3, 1975. The Committee Substitutes are identical.

HB 45  
CSSB 1

Mr. Gruening moved that the Finance Committee Substitute for House Bill 45 be reported out of Committee. There was no objection and the motion was adopted.

MOTION  
Motion  
Carried

There were 4 do pass recommendations; 2 do not pass recommendations; and 3 no recommendations; the majority report was "No recommendation".

Mr. Cowper moved that the Finance Committee Substitute for CSSB 1 be reported out of Committee. Mr. Gruening objected. Mr. Cowper said this bill had already passed the Senate and it would go back in conference if it passed the House. The House Bill 45 has to go through the Senate again. He felt it would be better to report out the Senate Bill. After a brief discussion on whether or not a "no recommendation" would affect the passage of the Bills, Mr. Gruening withdrew his objection.

MOTION

There being no objection to Mr. Cowper's motion, it was so ordered. There were 4 do pass recommendations; 2 do not pass recommendations; and 3 no recommendations; the majority report was "No recommendations."

Motion  
Carried

Mr. Cowper addressed the Bill saying that the Bill going out of this Committee was a better bill than came out of the Senate because of the amendments. He thinks the Ombudsman office will improve the responsiveness of government; that the people on the street want this bill to pass.

Mr. Gruening remarked that the whole legislative process is one of compromise because it is a system that has become full of red tape. He felt this bill was a compromise because government has become so complicated.

(Mr. Hall left the meeting).

At this time the Committee turned to the budget category of Administration of Justice and a review of Court Systems.

HOUSE FINANCE COMMITTEE  
Friday, March 7, 1975  
8:45 a.m.

Members present were Chairman Malone, Messrs. Duncan, Guy, Cowper, and Haugen. Absent were Messrs. Naughton and Gruening, Ms. Itta and Ms. Buchholdt. Others attending the meeting were Jack Chenoweth, Director of Local Government Assistance; Fred Baxter, attorney; Barbara Englert Thomas, Staff Assistant for House CRA; Rep. Cotton, and Senators Bradley and Willis.

PRESENT

HOUSE BILL 263 was under discussion, "An Act authorizing special temporary state financial assistance to the Eagle River-Chugiak Borough." This would authorize Community and Regional Affairs to contract for the necessary services to get the borough organized.

HB 263

Rep. Cotton pointed out that this was just enough money to get the Borough started; so that the CRA could contract for certain services for the Borough. He briefly went over the problems the Eagle River-Chugiak Borough had in trying to get funds by themselves.

Mr. Cowper asked if there was any way this money could count as a credit against what the Borough would receive; commenting that they might not be in existence by the end of the fiscal year. There is no idea of when a decision will be reached on the court case, but if they got a decision next week would there be any way to subtract this from what the new Borough would be due under the revenue sharing act.

(Mr. Naughton entered the meeting).

Mr. Chenoweth said it wasn't possible without legislation. Mr. Cowper asked if language could be added to the effect that if the Borough is entitled to revenue sharing funds, that this appropriation would be subtracted.

Mr. Chenoweth reported that payments for the current fiscal year were made to the Greater Anchorage Area Borough (GAAB); they asked for some portion to be redirected but were told no because it included the anticipated revenue receipts and they have the legal authority until the new Borough assumes its powers. If they assume any services for which revenue sharing is available they might be able to get a redirection of funds. Mr. Cowper said services should be supplied by GAAB but because of litigation it's in limbo; we should see if we can recapture this money from GAAB or someone--someone had the money to begin with, now more is being appropriated. Mr. Chenoweth stated that GAAB was paid and properly so; services are being provided by GAAB. He asked where the idea came from to shift the funds. Mr. Cotton said that any surplus from the appropriation would lapse at the end of the fiscal year, one advantage of a shift as against appropriating new funding. Mr. Baxter said another advantage is time. Eagle River-Chugiak Borough is up against the wall. They are hopeful that the Bill will go through the legislative process faster. There is a lot of work to be done so Eagle River-Chugiak

can be effective July 1. Almost every legal way possible has been pursued to get funds and this solution was the most reasonable one legally. HB 263

Mr. Baxter said he would explain the background of the budget, which is based on three assumptions: (1) That there will be some technical assistance provided by CRA; (2) that GAAB and Eagle River-Chugiak Borough would be able to work out a cooperative PEP program; (3) That Eagle River-Chugiak Borough would be able to obtain surplus furniture and equipment. He stated that this was a "bare bones approach." The greatest problem is that the school district has to be organized by July 1. The administrative organization has to be established. The finance director is crucial for budget preparation and revenue projections. The Public Works director and Planning director must be found because development doesn't stop. Sen. Willis said they need to continue with platting; there will be revisions of zoning maps. Mr. Baxter continued, saying that the Supreme Court fight was being handled by Anchorage attorneys that must be paid. There will also be legal questions about assets and liabilities.

Mr. Cowper posed the question, what if the decision is not in favor of Eagle River-Chugiak Borough, what happens about the finances--would they get money from GAAB? Mr. Baxter said that before Eagle River can obtain any funds there will have to be division of assets and liabilities. Mr. Cowper asked if they could make a proration of tax receipts, but Mr. Baxter said it would be difficult to transfer funds, that the methodology does not really exist.

The meeting was recessed at 9:55 a.m., to be reconvened at 11:00 a.m.

RECESS

*Pages out of order - these should follow  
minutes of pages 204-221*

HOUSE FINANCE COMMITTEE  
Saturday, March 8, 1975  
9:17 a.m.

Members present: Chairman Malone; Messrs. Cowper, Haugen, Guy, and Naughton. Members absent: Ms. Itta, Ms. Buchholdt, Messrs. Duncan and Gruening. Also attending the meeting were Rep. Charles Parr; and Russ Anderson, Civil Air Patrol, and Ken Roberts, photographer. PRESENT

Mr. Anderson said he would try to answer questions the Committee had, but that he was in town only incidentally, and was not thoroughly prepared to make a formal presentation. SB 77 am

The Chairman asked about work done in 1975 that was scheduled for 1976; Mr. Anderson replied that from talking to mechanics, he has found that aircraft doesn't run as long under CAP use, as commercial planes. The mechanics think they should be flown more often, every week or so. They thought the 310 aircraft would go until this summer, but it didn't and both engines are bad. It was sent to Anchorage for the annual check and the mechanic wouldn't let it fly.

If the planes don't fly for six month they must have a waiver, or there is the chance of losing the aircraft. A lot of the aircraft are picked up through surplus. The 310 was painted, direction finding equipment installed, converted wings; Mr. Anderson fears they will lose it because California is losing their twin engine and are looking for another and there are very few around.

He told the Chairman they have three aircraft out of operation: a beaver, a 150 Cessna and the 310 which is the most expensive to get back in the air; the 150 Cessna they will probably lose. There is still a lot of work to be done on the Beaver--in flight the throttle linkage came loose and they had to make an emergency landing on an icy lake. Work is done on a time-available basis in a sheet metal shop and it takes a long time to get it out of there.

The Civil Air Patrol in the last few years has not had a realistic budget and it is hard to plan because many unscheduled things happen; there is no possible way to plan for unscheduled maintenance.

Mr. Anderson said the 310 is a Cessna twin engine in Juneau, and would probably last eight years before the engines have to be changed. Mr. Haugen asked how much flying was done in Juneau, and wondered if the plane was here just to be here. Mr. Anderson said sometimes there is a long time without searches, but if he pulls a plane out then he will end up needing it. The plane is on wheels.

Mr. Anderson said one big problem is they will all need engine changes at about the same time. In IRF weather they can still get out; they can get a lot more done with this capability. They made some studies on moving aircraft to other areas, but trying to second-guess the searches is hard to do.

There is no other equipment with direction finding equipment except the Coast Guard. They thought of moving the plane out of Fairbanks, but with the pipeline it might be better to keep it there.

SB 77 am

The Chairman asked for an explanation of material used; Mr. Anderson said he had thought the amount was high, but had checked and found it was not. A lot of things have gone up. In answer to how many missions they fly, Mr. Anderson told Mr. Malone they had flown over 200 during the last 2-3 years and were preparing an annual report for the Legislature. As far as lives saved and people found they are always high for the U. S. In the national report to the Congress, he pointed out that the U. S. had 184 "finds" and 36 lives saved; Alaska had 53 "finds" and 12 lives saved.

In response to further questions from Mr. Malone, he stated that his mechanics cost \$9.00 an hour while the people in Anchorage are \$20.00 per hour and going up. There is considerable savings by using their own facility. They also have a depot which purchases parts at a reduced cost. He feels the maintenance is better and the aircraft is in better shape. As a rough figure, he feels \$30,000 a year is saved by using their own people.

He told Mr. Naughton the total number of aircraft in CAP is 30: including 3 T-34's, 9 Beavers and 2 birddogs on floats. There is aircraft in 14 different locations; they are thinking about moving one plane to Gulcana, and would like to have one in King Salmon, Bethel and Kotzebue.

He agreed with the Chairman that if the supplemental is held to \$43,200 they were in danger of losing the 310 to California; they will probably lose the Cessna 180 anyway.

He told Mr. Naughton the endurance of the 310 was about seven hours range. He further stated that waivers were getting harder to get, and their request had been turned down this year. He thought that aircraft on floats would make more sense. Twin engine planes could not be picked up surplus. All aircraft except for three are Air Force surplus; they are not paid for by the State.

Mr. Anderson was thanked and left the meeting at 9:40 a.m.

HOUSE BILL 166, a supplemental appropriation for a photographic history of the trans-Alaska pipeline construction, was introduced through the Finance Committee and relates to a project the Legislature funded last year in the budget for a \$70,000 photographis history of which \$45,000 was to come from the federal Bi-centennial Commission.

HB 166

Mr. Ken Roberts, photographer was invited to testify. He said the pipeline construction was obviously an historic event in the history of Alaska and for that reason there should be documentation of it; one way is to photograph it. With that notion he talked to members of the Legislature and they agreed that some money should be put into the budget for that purpose. Money

was put into the budget then there was difficulty getting it back out, but they did and began the project. It took a while to get authorization from Alyeska and they were charging them \$50 a day to stay in camp. Eventually they got that cost waived. Mr. Roberts handles the pipeline corridor and has a part time person in Anchorage and Fairbanks.

He said that during free conference \$35,000 was ear marked for this project. After the money was put in he spoke to the Bi-Centennial Commission and they thought they could match that sum, but became uncertain about the commitment. They wanted some guarantee that it would be a two year project, but his contract was for one year; so they have drawn back. He intends to try and get that money yet, but they need more right now.

In answer to Chairman Malone, he said the original appropriation was to the Department of Environmental Conservation and they had been handling it as a contract. The DEC will not seek funds or request them but they will administer the program. There is a hesitancy to interfere with what they regard as a legislative project, but they have been very helpful.

There is no other photographic history going on; Alyeska has two photographers but they work from a public relations point of view, and they are not concerned with the kind of history the Legislature wants to see done. The State of Alaska will inherit all their with when the pipeline is completed, and he is trying not to duplicate their work.

Mr. Cowper asked if the Bi-Centennial Commission would match the money if they appropriated another \$35,000; but Mr. Roberts said it was not clear that they would. They don't feel they should come through unless it's a two year project. Mr. Cowper asked what he would do if they came across with \$70,000, and Mr. Roberts said they would look at shooting some 16 mm film. The cost of photographic material has gone up about 60%, and movie film gets expensive very fast and they could not afford it unless the Commission came forth with some money. The amount of travel can get high too; villages kind of expect them to spend money; that they are on per diem like State employees.

The main approach to this project is beginning with an individual who knows something about the pipeline impact; they ask them how he sees the impact; they try to take photographs that reflect the person's point of view and they return with a collection of slides and prints and ask the person to review them while their comments are recorded. Sometimes they get the point and sometimes not. The photographs and recorded interview goes into a final volume. He is doing all of these things along with help from the person in Fairbanks/Richardson Highway, and another person doing Anchorage impact down to Kenai Peninsula. There is a third man not salaried in Fairbanks for the last month, who will be there another month before he leaves.

He replied to Mr. Cowper that he felt he had provided enough to cover the expenses needed for editing and finishing the project.

In answer to Mr. Guy, he said that a number of trips had been calculated at so many miles. As of now the length of the pipeline can be driven and that is more practical if Alyeska will allow it. They are very interested in covering all the small communities.

He told Mr. Cowper that they wear badges which identify them as pipeline coordinators, and they don't have to be escorted. It took nearly three months to get the badges, and he believed someone had to "lean on" Chuck Champion. The passes are honored by the head office in Anchorage but not always by the project engineers, who are afraid they are being replaced.

In response to Mr. Guy he replied that the finished product would be the property of the State, and is presently stored in Fairbanks. DEC oversees the project and calls for an accounting periodically. The finished product will be in the Division of Libraries or the University of Alaska Archives.

He stated that the pipeline coordinator is adamant that photographs of the pipeline do not go out without their acknowledgement; he has not convinced their office that the interest is in history not news. They are there on a good-faith basis, but the pipeline coordinator's office is very gun shy. He felt if they did come across a gross violation they would inform the Legislature, but that is not their purpose. They would lose their impartial status if they assumed an enforcement position.

Mr. Parr pointed out that after the project is complete, if it goes in the University of Alaska archives, then anybody can get copies of the material.

Mr. Parr reported that he had been a member of the Bi-Centennial Commission, but had not been in touch since he became a Legislator. He said a big problem was the Nixon impeachment; it was a long time before guidelines were approved for the Commission, and one of the guidelines was that matching funds cannot be granted for money already spent. He told the Chairman he thought they would match money from this time forward but not retroactively. None of the \$240,000 is used for operations; the last he knew \$160,000 or so had been committed to various projects. Ms. Beaty Langness is in charge of the Commission by appointment of the Governor.

Mr. Roberts said Ms. Langness had resubmitted the request to the Bi-Centennial office in Seattle and was hopeful; the original director was in Juneau and he seemed to be unaware of the whole status. The director asked if he was a non-profit organization; Mr. Roberts told him, that he was a State employee and it had only worked out that way. Several people are willing to make recommendations when the right moment arrives. The last time he had checked was a week ago. The Chairman expressed an interest in knowing if they were planning to commit funds. Mr. Roberts said he too was interested.

Mr. Parr said at the time he left there had been no back-tracking of the \$25,000 they had committed. Mr. Roberts said they had revised it to \$20,000 for this year and \$5,000 for next year. As Mr. Parr pointed out, the amount of money they can match has

dwindled and there is no longer \$20,000 to match. The money may come through but between then and now we may lose a hunk of documentation. Mr. Roberts said they needed money to pay the taxes on the amount of money DEC had paid out so far, about \$15,000.

HB 166

He said they had looked into going to other granting agencies but the time element was against them. The work is still going on but if he goes back out he would not be able to get back for a couple months. As Mr. Cowper pointed out if he gets the money Mr. Roberts is going to "split." Mr. Roberts said that luckily this has been a slack time in the construction, but its starting to fire up again.

Mr. Malone remarked that it was basically making a decision on whether it was worthwhile to spend money on this project or not. It is something hard to place a tangible value on. Mr. Roberts said he could not be sure the grant from the Bi-Centennial Commission would happen; there had been three false starts. Mr. Cowper asked if the money appropriated here would jeopardize the funds from the Commission; Mr. Roberts didn't have an opinion on their reaction. Mr. Parr's opinion was "no". He reported that at one time the Commission had approved several grants and there was talk of backtracking on one proposal, but several members felt they had made the commitment and it was not done. He has seen nothing to indicate that there would be any backtracking; the problem is purely in Washington. This money would make it possible to match it. The money shown for this grant was found in their budget.

The Chairman again mentioned that this was in the category of a big value judgment and could not be checked until the project was completed. He personally thought it was a worthwhile since it is the beginning of change and a new era in Alaska. He stated it was up to the Committee because there is intense competition for State funds.

Mr. Cowper felt strongly that it was important to continue this project even though there was no way to judge how good it would be; the Committee would have to go on faith.

Mr. Cowper moved that House Bill 166 be reported out of Committee. There was no objection and it was so ordered. HB 166 was reported out with a majority "do pass" recommendation.

MOTION

At this time the Committee took up the staff review of the Social Services category which is continued in the Budget Minutes book.

HOUSE FINANCE COMMITTEE  
Thursday, March 7, 1975  
11:05 a.m.

(Committee met earlier in joint meeting with Senate Finance)

Present at this time were representatives Malone, Duncan, PRESENT  
Cowper, and Haugen. Also present were Fred Baxter, representing  
the Eagle-River Chugiak Borough in the absence of their regular  
attorney; Jack Chenoweth of Community and Regional Affairs; and  
staff.

Chairman Malone called the meeting to order. He said that the  
program basically being considered now is to reprogram some HB 263  
of the extra revenue sharing funds appropriated in FY 75 and  
use that money for contractual services in Community and Regional  
Affairs to get the Eagle River-Chugiak Borough organized. He  
said that he personally had some questions with that approach.  
He does not basically like the idea of putting authorization and  
appropriation in the same bill and thought it may even be in  
violation of the joint rules and the Constitution. There is  
no particular advantage in shifting the funds over, and he  
thought that probably the best thing to do if this bill passes  
is to have a supplemental appropriation bill and revise the  
language in HB's 263 and 109.

Mr. Cowper said that his understanding was that at one time  
Community and Regional Affairs had suggested they take over  
this function and that essentially the legislature fund their  
expenses. He wondered what happened to that idea.

Mr. Chenoweth said that they started down the road with a small  
amount of pre-program monies to try to give some direction to  
the borough assembly. CRA is handicapped because their staff  
is all in Juneau, and the cost of travel and per diem would be  
excessive. He said that he thought it was fair to say that the  
borough assembly and mayor are more desirous of setting up  
something more permanent; they are interested in more than just  
transition assistance. They are trying to line up some key  
people.

Mr. Malone asked what the necessity of (b) under Sec. 2 of  
HB 263. Mr. Chenowith said that the idea had been to use  
contracts or agreements for this. The Department would then be  
able to have a handle on the program by being in control of  
the money appropriation. In that way, if the Supreme Court  
should rule that the borough was not viable or was not properly  
organized, they could stop any further agreements from being  
made and let that money lapse. In terms of keeping control

to  
it seems a much better plan rather than give a grant to the  
borough to have it programmed out over the period of four  
months in case the court decision came out against the borough.

HB 2

Mr. Malone said that he would rather see it handled in this way,  
also. If the state wanted to be able to cut the money off, it  
would have to be handled this way. Mr. Chenoweth agreed.

Mr. Malone said that conversation after a previous meeting,  
an amendment was suggested that would take out the language  
under Sec. 2(b).

Mr. Cowper said, in response to questioning by Mr. Malone, that  
it seems to him that the Eagle River-Chugiak matter is of para-  
mount importance and he is sure that it has had a high priority  
on the docket, but he said one can never be sure how long they  
will take in coming down with a decision. He felt that there  
ought to be some mechanism if the state is going to take over  
the finances to pay the state back -- but apparently there is  
not. He was apprehensive about what might happen if the court  
took longer than three or four months to come to a decision.

Mr. Duncan asked if there is no court determination quickly,  
if that would mean they would still be in trouble after July  
1. Mr. Baxter said that as far as comment from the Supreme  
Court, they have only indicated that they are giving it  
priority and the decision will be coming in the near future.

Mr. Cowper, in answer to Mr. Duncan's question, said that he  
was right -- if the Supreme Court for some reason does not  
come in with a decision in the near future, then the borough  
will in fact be in the same quandary. Mr. Baxter said that  
they are hopeful that the decision will come sooner than that  
because they have hurried up the rest of the proceedings and  
have treated this as a priority matter.

Mr. Cowper asked what the amount of office space for the borough  
is, and Mr. Baxter said 1500 square feet. Mr. Cowper said that  
he personally would have difficulty accepting the state's  
providing office space.

[Mr. Guy entered the meeting.]

Mr. Cowper continued, stating that he can see the need for the  
school district to be organized. He agreed that planning has  
got to be at least started for that. However, some of these  
funds requested seem to him a subsidy of the borough's functions  
and while it would be nice for them to get started out, he  
feels there should be some mechanism to pay the state back.

Mr. Chenoweth said that he reads the language on assets and liabilities differently than it is being interpreted. He said that it seems to him that as long as a new borough does not give notice of assumption of powers, the Anchorage Borough (in this case) has the obligation for that borough and also a claim on taxes from that borough. Thus, if the education function is not assumed, there would be no allocation to make. If they do give formal notice of assuming the planning functions as of May 1, then they must contrive a formula based on the receipts of the Anchorage Borough from the tax payers in support of the planning function. The new borough is made up of 5% of the people and so that percentage is what the Anchorage borough is due to pay the new borough. The amounts calculated in this way would not be much but would be contingent on the new borough assuming powers at the end of June.

Mr. Cowper asked if the contracts don't have to be made with the Anchorage Borough for next year's school teachers. Mr. Chenoweth asked if there wasn't some provision of law saying that after certification of an election that the Anchorage Borough may not bind the new borough without its permission.

Mr. Guy said that he read that the governing body of the Anchorage Borough had reversed its original decision to collateralize the loan for the new borough. Mr. Baxter said that that Eagle River-Chugiak had gone to the Anchorage Borough to see if they would collateralize so that they could borrow money from the Department of Revenue. However, the resolution that was finally adopted by the Borough Assembly was so watered down that the Department of Revenue would not buy it. By the time the bond counsel got involved and the resolution was watered down, they could not get the loan. The proposal died for lack of a second, at the advice of bond counsel.

Mr. Cowper asked if there is going to be litigation over the division of assets. Mr. Baxter said yes, there probably will be although he hoped not. No one in the state has ever been through this state. He mentioned having to go before an arbitration board, particularly as to the prorating of bond debts.

Mr. Duncan wondered what would be the difference between this and when unification took place. He thought it seemed to be the same process in reverse. Mr. Chenoweth said that it is not really the same situation. The approaches will have to be different. One of the particular problems he mentioned is the valuation of publicly held property.

Mr. Malone said that Anchorage, as he understands it, is going along with the assumption that the borough is going to be

taking over. Mr. Baxter said that that has to be the assumption. Comment was made that if they did not, it would confuse Anchorage's budgeting for the coming year.

Mr. Duncan asked what caused the change between the first budget that was presented to the Finance Committee and the present one. He wondered if CRA had come in and helped them with it. Mr. Baxter said that the biggest change has been Mr. Jordan, Borough Mayor, realizing that they had to cut back. As far as rental space, they have looked at what is available now. They are also talking about a shorter period of time now than they were before. There have been some funds expended out of the original organization grants to pay for some things, for instance for budgetary work for the school district. Also, some things have been left out of the revised budget.

Mr. Duncan wondered how realistic this budget is. Mr. Baxter said that it is as realistic as possible. It has been pared down. Their budget now is a bare minimum necessity.

Mr. Cowper asked if he knew how much money the borough has spent or owes for attorney's fees so far. Mr. Baxter said that he could not answer that question. He said that he has heard a lot of comments that their appeal costs have been exorbitant.

Mr. Malone, summarizing what has gone on so far, said that the original request was for a grant along the lines of an organizational grant; next was the possibility of a loan; and last is an appropriation to the Department of Community and Regional Affairs which would still allow for monitoring of the money and still accomplish what must be accomplished. Other alternatives, Mr. Malone said, include waiting to see what the Court decision is, leaving it to themselves, and repealing the act. As far as action, he said that if the legislature is going to do anything before adjournment, it will probably be along the lines of a CRA appropriation. The borough cannot apparently accept a loan, and he said that he does not know how the state can get them to pay it back. With changes in HB 263, the state could retain some controls. If it is revised it will not be a grant provision.

Mr. Duncan said that then if the Court decision dissolved the borough, the money would lapse. Mr. Haugen said yes -- and warned that they be sure that any contracts are "collapsible".

Mr. Malone said that looking over the bill itself, he raised objection to the idea of using revenue sharing money because "it is going to lapse anyway". He pointed out that the money "is all coming out of the same pocket". He felt that if an appropriation is to be made, it should be as a supplemental

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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to the Department of Community and Regional Affairs. He said that they could add a section to the bill which would state that if the borough was ruled out of order the Department would not be authorized to expend any more money.

HB 263

Mr. Guy said that he thought there were some unallocated funds from the last fiscal year which the bill proposes to utilize. If that is the case, he wondered what the need for a separate supplemental bill is. Mr. Haugen explained that the money cannot be given to Community and Regional Affairs unless it is a supplemental bill. Mr. Malone elaborated on the need for two bills, stating that the Constitution and Joint Rules provide that bills authorizing expenditures have to be separate from the bill appropriating. He didn't really think it would be "clean" to provide for both in one bill.

Mr. Guy asked if there was anticipation of any emergency or incidental expenses which would cause expenditure of those monies that may be lapsing before the end of the fiscal year. Mr. Chenoweth said not for the revenue sharing program. He said that they are fairly sure with the exception of a couple little amounts about the amount that will be left. There is a margin of \$400,000. They have paid all but 20 municipalities and those have not issued a statement (that is included in the \$12 1/2 million).

Mr. Malone said that what he is talking about in this bill are the lines in Sec. 2 which refer to CRA's use of money in the special municipal services account. He also felt that in (b) of Sec. 2. the words "shall be grants and shall" should be struck and word "may" should be inserted. This will give the Department control.

Mr. Guy asked Mr. Chenoweth for his reaction to the Chairman's suggestion. Mr. Chenoweth said that his first question is what monies will be used if the reference to the revenue sharing funds is deleted. Mr. Malone said that there would be a supplemental appropriation out of the general fund. He explained that he just does not like the idea of someone calling the remaining revenue sharing monies "extra money". He felt that people should recognize that it is still state money.

Mr. Malone noted that there is another Eagle River-Chugiak bill -- HB 109, for a different amount. It would require some slight revision, but he thought it could be used as the appropriation bill for HB 263.

HB 109

HB 263

Returning to HB 263, Mr. Cowper moved to delete the language on line 20 from the word "may" through the word "to" in the middle of line 22, and on line 23, following "Borough" to add

MOTION

"for the fiscal year ending June 30, 1975." He further moved to delete the wording on line 28. reading "shall be grants and shall" and to insert the word "may" in its place. (motion later amended) HB 263

Mr. Malone said that the problem he could see if the motion carried is that assistance itself could not carry beyond the end of the fiscal year. Mr. Duncan asked if there would be a separate appropriation bill and he was answered yes. Mr. Cowper said that he thought the language on page two would allow the Department theoretically to make an agreement on June 30 which would go forward into future years.

Mr. Malone said that the language about June 30, 1975 in (a) of Sec. 2 really related to the revenue sharing and he suggested that perhaps that should be excluded. Mr. Cowper amended his motion to exclude June 30, 1975 so that the language deleted would now be from "use" on line 20 to and including "to" in the middle of line 22.

MOTION  
AMENDED

Mr. Malone asked Mr. Chenoweth for his thoughts about the proposed amendment. Mr. Chenoweth said that this is accomplishing the same purpose as set forth in the original house bill submitted. He said it is a more traditional way of handling things and he thinks provides a better way of handling it. He said he had no real problem with the amendment. With reference to Mr. Cowper's concern, Mr. Chenoweth stated that CRA has no intention of letting contracts that would extend into the next fiscal year.

There was comment that if this bill were to pass to some extent the legislature is relying on the judgment of the Department to keep in mind the pending litigation. Mr. Chenoweth said that he would expect that they would have as near as possible "collapsible" contracts. He asked if they would want to put a termination clause in stating that no contract shall be entered into after a final decree of judgment by the Court terminates the separate borough. The committee seemed willing to rely on CRA's judgment on this.

There being no further discussion, question was called on the motion and it carried without objection.

Mr. Malone again brought up his concern that if the bill provides that assistance will terminate on June 30, 1975, since technical assistance is also being offered that might be interpreted as meaning that the technical assistance also shall cease. Mr. Cowper said that he did not think that would be so, since CRA has statutory authority to provide assistance, anyway. He asked Mr. Chenoweth if that was not so, and Mr. Chenoweth said yes.

Mr. Malone brought up Mr. Chenoweth's earlier mention of an amendment to provide a termination clause should the Courts decided against the separate borough. Mr. Duncan asked if that could cause some problems court-wise. Mr. Baxter said that he though the best thing would be to have the termination provision in the contracts themselves, let by CRA. Mr. Malone said that he personally felt this was pretty well covered in Sec. 1. Mr. Cowper moved that the amendments be incorporated into a committee substitute and that CSHB 263 be reported out of committee. There being no objection, it was so ordered. HB 263 MOTION

Turning next to HB 109, Chairman Malone said that this is the bill that can be revised to appropriate the money for HB 263. At present the bill provides for a grant. There was discussion about the changes that need to be made. HB 109

Mr. Cowper moved to amend Sec. 2 to reflect the title of HB 263 and there being no objection it was so ordered. MOTION

Mr. Cowper asked if an appropriation bill has to refer to specific statutory authorization, and Mr. Malone said no, it does not have to refer to a statute but does have to refer to an authorization.

Mr. Duncan moved to amend line 11 of the bill by deleting the figure \$50,000 and inserting the figure \$71,600. Mr. Malone asked Mr. Chenoweth if he was in on the formation of the updated budget outline and Mr. Chenoweth said yes. There being no further discussion and no objection, the motion carried. MOTION

Mr. Cowper moved to further amend sec. 1 on line 13 by deleting the words "as a supplementary organization grant" and inserting in their place the words "for financial assistance". Mr. Malone was concerned that the words "defray the cost.."etc. related to the grant. Mr. Duncan said that although it is not a grant, the state really has no way of recovering that money, and Mr. Chenoweth said that is right. Mr. Haugen expressed his concern that the original bill will "come back to haunt" them. There being no further discussion, and no objection to the motion, it carried. MOTION

Mr. Malone said that there are still some problems with the appropriations bill. There is still the question of repayment. There is also the matter of a "lapses" which is normally found in a supplemental appropriation bill. He mentioned that this is probably taken care of in the authorization bill, however.

Mr. Malone read a proposed amendment which would create in a sense a moral obligation. Mr. Cowper wondered if perhaps it wouldn't be possible to get some assurance from the department about their attempting to help in recovering some of this money, since he really did not like the idea of putting moral obligations into the law. Mr. Duncan proposed the idea of withholding the borough's revenue sharing monies if they failed to pay the state back. He wondered if that could go in this bill.

Mr. Cowper moved to amend the bil by adding language to Sec. 2 which would state that this bill is authorized by CSHB 263. Mr. Malone did not feel that would be necessary. Mr. Cowper withdrew his motion.

MOTION

MOTION  
WITHDRAWN

Mr. Cowper moved to incorporate the amendments to HB 109 in a committee substitute and to move CSHB 109 (Finance) out of committee. No objection, so ordered. The bill was reported out of committee with a majority report of "do pass". Not concurring were Reps. Haugen and Naughton who signed "no recommendation".

MOTION

Meeting recessed at 12:30 p.m.

RECESS

AFTER RECESS  
2:04 p.m.

Present at this time were Reps. Malone, Cowper, Guy, Duncan and Naughton. Also present was Representative Smith.

PRESENT

Chairman Malone called the meeting back to order and announced that Mr. Smith, sponsor of HOUSE BILL 3 (Dedication of park and open spaces and recreation areas) was present to testify on the bill.

HB 3

Mr. Smith said that HB 3 is basically the same as last year's HB 45. The major different between the two bills is in the second sentence of (b) in Sec. 1, which reads "The regulation shall relate the percentage share of land to be dedicated to the proposed populaton density of the subdivsion." He said that he thinks that is a sound approach to the problem of trying to differentiate between open space requirements for subdivisions consisting of 5 acre parcels and that of a considerably more dense subdivision. Another feature of the bill would permit payment by the subdivider of an amount in lieu of an area.

Mr. Malone said that he had been on the House Resources committee last year and they had fairiy extensive hearings on last year's HB 45. He said that one difference between the two is that the bill which was introduced in the last legislature provided for

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for requirement by ordinance rather than by regulation, as does this bill.

Mr. Cowper asked if the municipalities couldn't do this anyway. Mr. Smith said that he is told by the borough attorney in Anchorage that they cannot because they lack the authority to do so.

Mr. Cowper said that it seems to him that this is within the general zoning powers of the municipality. Mr. Malone said that they had quite a bit of discussion on this last year in the House Resources Committee. In some states with statutes similar to Alaska's, the municipalities do exercise this type of planning power. There does seem to be some question as to whether or not this power is specifically authorized in Alaska.

He noted that the bill was reported out of CRA committee with a "do pass". He said that he personally feels that the municipalities already have the authority, but the municipalities do not feel that they do.

Mr. Naughton moved to change the language on line 12 by deleting "regulation" and adding "requirement". He further moved to delete "regulation" on line 10 and insert "ordinance". MOTION  
No objection, so orderd.

There was quite a bit of discussion, resulting in a committee decision to hold the bill for further research. (Committee eventually referred this bill back to the floor with the suggestion that it be referred back to Judiciary with the proposed amendments.)

SENATE BILL 67 (Supplemental Appropriation to the Department of Highways) was brought up for consideration. Present at this time were Deputy Commissioner Matlock, Administrative Director Chitty, and Fiscal Officer Frank Baxter, of the Department of Highways, along with Mr. Wayne Weeks of Budget and Management. SB 67

Mr. Chitty said that the the \$788,000 portion of the requested supplemental for the Highway Working Capital Fund is caused basically by inflation and the high cost of doing business. This figure is based on projections which they have made, and he said that they admit that they are not as sure of the projected figures as they would like to be.

He said that because of a basic misunderstanding of what they

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thought was an appropriation and authorization to expend, they had an overexpenditure last year of \$400,000. He said that they are not sure how inflation is going to affect their projections but present projections indicate that they are going to be pretty close to making it. They may be able to live within what the Senate Committee has done -- which was to appropriate \$336,300 from the general fund to the Department for this fiscal year to fund increased space rental costs and to allocate \$386,600 from the FY 75 appropriation to cover the FY 74 overexpenditure.

Mr. Malone referred to the \$400,000 difference between the SB67 and the CSSB 67 and Mr. Chitty said that that is what he is saying the Department may be able to "eat", if their present projections are correct.

Mr. Duncan asked what they were asking for in the original bill. There was some confusion in his mind about the different figures. Mr. Baxter said that the confusion lies between the \$386,000 figure for 1974 and the \$336,000 needed for administration and support to fund rental space increases. These are two separate BRU's. Mr. Duncan said, then, that what the Senate did was that they recommended funding only the \$336,000 for the FY 74 overexpenditure but not the FY 75. Mr. Hogan explained that the easiest way to view this is to look at the original bill. This called for two appropriations -- one for \$788,000 and one for \$336,300. Part of the \$788,000 was to cover 1974 over-run and part of 1975. The \$336,300 was to cover increased rental costs of buildings, and the Senate committee substitute funded this amount, but made no provision for the additional \$400,000.

Mr. Malone asked what the status of the Highway Working Capital Fund is now for 1975. Mr. Matlock said that at the time this information was put together they projected \$400 some thousand more than they were allowed for FY 75. During the last few months, their projections have been fluctuating to some extent. This amount of \$401,000 is roughly 3% of the total budget. At the time their projections indicated that it was going to take that amount to get them through FY 75. Now their projections indicate that they can probably make it without the additional \$400,000

[The Highways people left at this time.]

Mr. Malone said that basically what the Senate has done is said that the amount requested has to be made up during the 1975 fiscal year. Receipts of the fund are from the agencies using the capital equipment. Mr. Hogan said yes, that is correct, and most of that comes from the Department of Highways although some

of it comes from other agencies. Mr. Malone said that expenditures cannot be made from the fund without legislative authorization. Mr. Hogan said that that is basically correct. What they do with the fund is set a top limit. This can be increased with Budget and Audit approval or by legislation.

Mr. Guy asked about the \$535,000 figure mentioned in a letter to Mr. Freer from Mr. Smith, on page 3. Mr. Hogan said that the \$500,000 figure was a preliminary estimate. When the books were actually closed, in mid or early April of last year, this was adjusted. It was a case of an excessive estimate.

Mr. Malone said that the legislature at the time of adoption of the 75 budget was not aware of the overexpenditure in 1974.

Mr. Hogan said not really. The way that occurred was that the Department of Highways came in at some time during the Free Conference process and substantially amended their maintenance budget and working capital budget to account for salary increases and inflated costs of commodities and equipment. They "shuffled a lot of paper" in a hurry. This was allegedly made clear to the legislature, but in fact it was not. They thought they had made their point but the Free Conference Committee did not understand that and thought Highways was referring to FY 75. As a result, the bill was written without amending it to cover 1974.

In response to Mr. Duncan's questioning about the memo referring to the Free Conference Committee hearings, Mr. Hogan said that it is difficult to determine what occurred. He said that he thinks basically there was a lot of paper flowing through and he would hesitate to say whether the Committee was aware or not of what was being done. The Department of Highways did wait until rather late to introduce that paperwork. He said that he didn't think even Budget and Management got a very clear look at what was going on.

Mr. Haugen spoke up about the absurdity of departments not being able to get a statement of cash balance at short notice.

Mr. Guy wondered if part of the request could be appropriated from the Working Capital Fund rather than entirely from the general fund. Mr. Hogan said that there is no money in the Working Capital Fund. That does not come basically from the general fund to begin with. It generates its funds from something else -- by charging for equipment and building use. Everything other dollar comes from the general fund.

Mr. Duncan if the Senate version of the bill is really realistic. He wondered if the amount they have will truly be sufficient

to take care of the situation. Mr. Hogan pointed out that Mr. Matlock just said that their projections indicate that they will be able to make it.

Mr. Malone asked if the increased space rental are for buildings all over the state. Mr. Hogan said that majority are built under the maintenance bonds for the Department of Highways. These are maintenance facilities, and are maintained out of the working capital fund. Usage fee is charged against the using agencies. He explained that what triggered most of the need for additional monies is the high rate of inflation and the salary increases as they have filtered down.

Mr. Haugen moved to report CSSB 67 out of committee. After brief further discussion, the motion carried, with a unanimous "do pass" recommendation.

MOTION

SENATE BILL 77 amended (Supplemental Appropriation to the Department of Military Affairs for CAP) was brought up for discussion. Mr. Judson Lanier, Administrative Officer of the Facilities and Fiscal Division of the department was present at this time along with Mike Clemens of Budget and Management.

SB77am

Mr. Malone said that the original request was for \$61,000, and this was reduced by amendment in the Senate to \$43,200.

Mr. Clemens said that the reduction in the Senate was for work that was scheduled originally in the FY 76 budget but needs to be done now. The Senate felt that the work should be put off until FY 76. He referred the committee to the packets of information explaining what has been done in 1975 and why they need this money (packets in bill files). Basically, he stated, there are two things contributing to the need for this supplemental. One is inflation, coupled with an unusual number of unscheduled incidents on the part of the CAP. They had not budgeted for unscheduled repairs. He said that, additionally, they have had to increase their 76 budget up to a full needs budget after extensive consultation with the CAP.

Mr. Lanier said that a major concern about the overhaul of these planes is that unless they overhaul the engines they are running the risk of the national CAP, who owns the planes, coming around and taking the planes back. Most of these planes are surplus plans and so are more subject to mechanical problems and failures.

Mr. Guy asked if the four engines they are contemplating purchasing are new engines, and Mr. Lanier said he believes they are new engines.

Mr. Clemens said that some of the parts used by CAP are from a parts depot in Texas and they shop around for new and re-conditioned engines. He said that he knows some of these are reconditioned.

Mr. Duncan asked how long the aircraft have been out of service. Neither Mr. Clemens nor Mr. Lanier knew. Mr. Clemens said that he thinks one of the aircraft is a supercub which needs re-covering and another is a Cessna 310. They are out of service. The problem is that technically they are national CAP plans and are used by the states with the agreement that they will be kept operational. If they are out of service for a length of time, then a waiver has to be requested from the national headquarters. They have apparently not asked for a waiver.

Mr. Duncan wondered if the national CAP really would take the planes. He asked if they have done that to any other states. Mr. Clemens said that he didn't think very often but he said that he would get a definite answer from Mr. Anderson, Deputy Commander of the Alaska Wing of CAP.

Mr. Malone said that the committee has some information on this supplemental from the Senate Finance Committee, stating that some of this work was originally scheduled for 1975. He asked if they are saying that it should be done now. He also asked if this was approved now, what impact would it have on the FY 76 budget. Mr. Clemens said that on the 76 budget, the Governor has added back the original agency request. The initial supplemental request was different than what is before the House Committee. He said that what they discovered while working on the supplemental request was that they were still underestimating the need for FY 76. He said that the feeling is that if the agency were fully funded for FY 76 and had all the needs taken into account they could theoretically subtract the money out if they were to do the overhauls in 1975. He stated, though, that even with the monies that were added back into the 76 budget by Budget Review to bring the budget back up to the agency request, they still feel they are "playing this pretty close".

Mr. Malone asked if he was saying that if the total supplemental request is approved, it will still have no impact on the 76 budget request even though some of the work funded by the supplemental is also in the budget. Mr. Clemens said yes, they would not plan to reduce the 76 budget because it is low as is.

Mr. Malone asked what the total request for 76 is, and Mr. Lanier said \$134,700. Mr. Clemens corrected that figure, however, explaining that that was the original request, but the correct figure should be \$168,200. The addition is the \$33,500 added into the commodities area for parts.