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IDENTIFICATION:

BILL NUMBER: SB 292

BILL NAME: Emergency loans for certain miners.

SPONSOR(S): Fahrenkamp

RELATED BILLS PENDING: HB 392

DATE INTRODUCED: 5-9-83

REFERRALS: Resources
France

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

AGENCY RESPONSE:

FISCAL NOTE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

*Withdrawn
by sponsor*

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 3, 1983

Ms. Leah Madonna
Alaskan Prospectors & Geologists Supply
504 College Road
Fairbanks, AK 99701

Re: Delta Smelting & Refining,
Inc. (Fairbanks) and Delta
Refining (Richmond, B.C.)

Dear Ms. Madonna:

Your letters of April 20, 1983 to the Attorney General and April 21, 1983 to Governor Sheffield have been referred to me for response. I have discussed this matter at length with people in the Alaska Division of Securities, the Governor's Office and the Attorney General's office, particularly the Consumer Protection Section, and you should be aware that we all recognize and sympathize with the nature and extent of your problems with these companies.

You initially indicate that it is your belief that the State, by permitting Delta Smelting & Refining, Inc. to incorporate and operate in Alaska, has somehow made itself a party to the problem. It should be pointed out, however, that under Alaska law, the State neither approves nor disapproves of a corporation's activities when it permits the corporation to do business, and the incorporation process is merely a method of assuring that the State can identify companies for such purposes as collecting taxes. As a general rule, when private citizens have problems with a particular corporation, it is neither the duty nor responsibility of the State to step in, because that is simply a private matter between the parties.

Our staff is currently conducting an investigation to determine whether Delta Smelting and Refining has any assets remaining in Alaska. If it appears there are no assets available, then any action in the Alaskan courts would obviously be futile. If such is the case, the only recourse would be for creditors to hire a Canadian attorney to represent their interests in the Canadian bankruptcy proceeding.

On the other hand, if there are assets remaining in Alaska, the State will then decide whether it will proceed,

taking into consideration such factors as the number of parties involved, the extent of the harm, the nature of the alleged wrong, the likelihood of success, and primarily the interest of the public which is to be protected. However, if a decision is made for the State to intervene, it would be done on behalf of the public, not the individual investors, who would be responsible for protecting their own interests, presumably through private counsel.

Therefore, whether the State decides to intervene or not, we strongly urge you to employ a private attorney. Were the State to attempt to intervene in this case, the best it could hope for would be a freezing of the assets of the Alaskan corporation. Presumably, creditors of the corporation could seek and obtain the same result through private action for either a temporary restraining order/injunction or through involuntary bankruptcy. Thus, the private individuals are in an equal position with the State, and assuming that there are no overriding public interests at stake, this is a private matter, and it would be more appropriate for the private investors to bring their own personal action rather than use state resources.

Finally, the principal problem appears to be with the Canadian corporation rather than the Alaskan corporation. In that the Canadian corporation has filed bankruptcy under Canadian law, this appears to be a problem for the Canadian courts to resolve. We have discussed this matter with the Superintendent of Brokers, the equivalent of the U.S. Securities and Exchange Commission, in Vancouver, and he has agreed to keep our Securities Division informed of developments in the case. Furthermore, it is his understanding that the Canadian bankruptcy laws are similar to those of the United States, and therefore there should be little risk of the Canadian bankruptcy action removing assets from the Alaskan company. You may wish to contact the Vancouver Superintendent of Brokers' office for further information.

We have also learned that Delta Refining has other subsidiaries in Hawaii, California and the Yukon Territory. At present, we are aware of no action being taken by or on behalf of any of these subsidiaries, indicating that they believe the Canadian bankruptcy proceeding will adequately protect their rights.

I am sorry that we cannot be of further assistance to you. Be assured, however, that should we learn anything further through our ongoing investigation, or should future information indicate that state intervention would be appropriate, the State

Mrs. Leah Madonna

May 3, 1983
Page 3

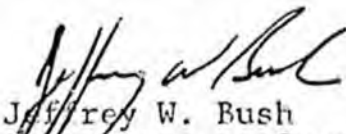
is prepared to reassess its position.

Please feel free to contact me if you wish to discuss this further.

Sincerely yours,

NORMAN C. CORSUCH
ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General

JWB:aja

cc: Honorable Bill Sheffield
Governor

Honorable Bettye Fahrenkamp ✓
Senator

Honorable Don Bennett
Senator

Ed Watkins
Division of Banking & Securities

Connie Sipe
Assistant Attorney General
Chief, Division of Consumer Protection
Anchorage

D. Rebecca Snow
Assistant Attorney General
Fairbanks

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

DIVISION OF INVESTMENTS--465-2510

May 10, 1983

Honorable Robert H. Bettisworth
Alaska House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

SB 292
withdrawn 5-11-83

Dear Representative Bettisworth:

Thank you for the opportunity to discuss alternatives to HB 392 which would provide emergency operating funds to certain miners.

As discussed with Steve Frank of your office, these mining loans can already be made under existing statutes with the following exceptions:

1. There is virtually no limit on the loan value,
2. collateral is required, and
3. five years' mining/prospecting experience is required.

I believe the intent of your bill is to ensure that operating capital is made available to qualified/affected miners in an expeditious manner.

As stated earlier, I believe the vehicle to do this already exists under current statutes. In addition, I have directed our Fairbanks office to assign a priority to the processing of these loans consistent with the intent of your bill and with the exceptions noted above.

I am also extending loan approval up to \$25,000 to our Fairbanks office for these specific mining loans. This will preclude convening a loan committee and should expedite the loan process. I believe we can process loans under these circumstances within one to two weeks. In addition, at the request of Commissioner Lyon, we intend to publish newspaper ads alerting affected individuals to the services provided by all our regional offices and, in particular, our Fairbanks office.

Honorable Bettisworth

-2-

May 10, 1983

I would like to express my appreciation to you for bringing this sensitive issue to our attention. If I can be of further assistance in this matter, please do not hesitate to contact me.

Sincerely,



Paul B. Arnoldt
Director

PBA/va1E32

cc: Richard A. Lyon, Commissioner

SB 292

RELATING TO EMERGENCY LOANS FOR CERTAIN MINERS.

SPONSOR: FAHRENKAMP

Would allow the Department of Commerce to make emergency loans from the mining loan fund to eligible miners that have entrusted gold, silver, or platinum to Delta Smelting and Refining Co., Ltd. and are unable to obtain the return of the precious metal or reimbursement for its full value.

The loan shall be for operating capital for the 1983 season and must be repaid with accrued interest (annual rate of 10%, compatible with other loans from the mining loan fund) before January 1, 1984. The loan may be from \$1,000 - \$25,000, but may not exceed the value of the metal entrusted to Delta Smelting. Only one loan per miner is allowed; collateral may not be required.

To be eligible for a loan under this section, a miner must be a resident, hold a state mining license, be engaged in mining in the state, and have a working interest in a mine in the state.

Department may adopt regulations^{to} implement this section. These regs. are not subject to the Administrative Procedure Act.

This is a direct response to the bankruptcy of Delta Smelting in Fairbanks. The following information is from Dan Barrett of Delta Smelting/Steve Frank of Bettisworth's office:

\$2.3 million in Alaskan names.

140 claims, 100 over \$1,000

80 less than \$25,000

12 between 25,000 and \$50,000

3 between \$50,000 and \$100,000

5 over \$100,000: Au Placer, Inc., Little Creek Mining,

Richard Wilmarth, R.E. Frith, Charles Stent

The Department of Law is currently conducting an investigation to determine whether Delta Smelting and Refining has any assets remaining in Alaska.

5-10-83 Steve Frank: amendment to include collateral

1100 dozen points short of its record close of 1,226.20 last Friday. But new highs were established by such other measures as the Dow Jones average of 20 transportation stocks, up 16.20 at 547.57; the New York Stock Exchange composite index, up .64 at 34.40, and the American Stock Exchange market value index, up 6.72 at 436.81.

Chrysler to pay debts early

DETROIT — Chrysler Corp. said Thursday that it would pay back \$400 million in federally guaranteed loans next month, seven years ahead of schedule. The announcement triggered a demand by a top United Auto Workers official that contract talks be reopened so Chrysler workers can receive an immediate pay increase. The current labor agreement between Chrysler and the union does not expire until January. But a UAW officer said Chrysler's return to profitability, as reflected in the early loan repayment, justifies a re-opening of the agreement.

Execs bullish on economy

NEW YORK — Business executives are increasingly confident that the recession is over and that a sustained recovery is under way, a survey said Thursday. Of the 602 executives interviewed by Louis Harris and Associates, a public opinion firm, 77 percent said they expected a "modest" recovery in the next 12 months. Twenty-one percent said they expected a "solid" recovery, the survey said. Only 2 percent foresaw no recovery or a deterioration of economic conditions. Louis Harris, whose firm conducted the survey for InterNorth Inc., told a news conference that 83 percent of the executives polled last December had expected a modest recovery in 1983 and 5 percent expected a solid recovery.

Judge delays 'milk tax'

COLUMBIA, S.C. — A federal judge Thursday temporarily barred the government from collecting 50 cents for every hundred pounds of milk produced by the nation's farmers. U.S. District Judge Matthew Perry said the injunction will remain in effect until May 25, when he will issue a final opinion on the case filed by the state of South Carolina and seven dairy groups against U.S. Agriculture Secretary John Block. USDA had planned to start charging the country's 250,000 dairy farmers on Sunday. Congress empowered Block to impose the fee to make dairy farmers help pay for government purchases of surplus milk.

Rich rancher sues Seafirst

SAN ANTONIO, Texas — Clinton Manges, a wealthy south Texas rancher, filed a countersuit in state court against Seattle-First National Bank, seeking \$1.5 billion in damages for a dispute over \$40 million in loans. Manges' filed his suit after Seattle-First National Bank filed a \$100 million suit in federal court Wednesday contending the rancher had defaulted on the loans. The millionaire rancher charged the bank with "misappropriation of funds, improper banking practices, slander and libel."

AMC to launch China venture

PEKING — American Motors Corp. signed a contract Thursday to establish the first automotive joint venture in China, a move

time Turpin leaves office in September.

Beckwith, a four-year resident of Alaska, retired last year as Alaskan Air Command chief for engineering. Turpin said Beckwith has been "a very active member of the chamber" and served on the group's energy committee.

Waters, a former chamber president who now serves as executive

Wayne Beckwith has been Anchorage Chamber of Commerce

vice president, will begin work establishing an economic development unit of the chamber. Turpin said this could grow into "a n

Alaska miners hit by Canada smelter default

By ROBERTA GRAHAM
Daily News business reporter

5/1/83

A Canadian smelting firm was forced into bankruptcy Thursday after an overwhelming majority of creditors — including as many as 300 Alaska miners — voted down the company's plan to reorganize its debts.

The fate of Delta Smelting and Refining Co. Ltd., Richmond, British Columbia, and its Alaska smelting subsidiary in Fairbanks, concerns smaller miners in the state who have \$1 million to \$2.4 million in precious metals on deposit.

Company President David Seed said a run on metal withdrawals by depositors forced the firm to file for bankruptcy.

Tony Liebert, of Campbell Sharp Ltd., Vancouver, and the smelting firm's trustee, said Delta Smelting had between \$500,000 and \$600,000 in its vaults but demand for money exceeded \$3 million.

He said an investigation was launched at the federal and provincial level immediately after the vote to reject the plan to determine if the company violated securities laws.

Liebert said the Royal Canadian Mounted Police Commercial Crime section, and the federal and provincial Departments of Consumer and Corporate Affairs will begin investigating Seed and other company officials to determine whether:

- the company deposited clients' precious metals into a Swiss bank account;
- corporate auditors were negligent; or
- employee bonding rules were violated.

Under Canadian law, creditors must vote to approve a plan before a company is allowed to reorganize its debts. Delta Smelting filed its reorganization proposal — which called for some of its debts to be forgiven — on April 1. Creditors met Wednesday to vote on the reorganization plan.

Liebert said any plan to reorganize — under Canadian law — must pass by a simple majority vote and by 75 percent of the dollar value held by creditors.

When the votes were tallied, he said, the plan had won the simple majority vote with 479 creditors voting to accept it and 399 voting to reject it. But the plan failed the second test when those holding \$6.65 million rejected it and those with \$2.85 million voted to accept it.

"There were between 400 and 450 people there to testify ... and almost every speaker spoke against the plan," Liebert said. "There were a lot of angry miners there."

"As a result of the vote, we've seized the plant. We'll be winding down operations and looking for a buyer," he said.

The next step will be to investigate corporate

See Page B-9, SMELTER

Getting in
Leonard Wagner
story, \$8 million
for completion in
Highway at 36th

Sheffield reports 'no

In February, Agriculture Secretary John Block said a plan would be ready within several weeks. But when a Senate Natural Resources Subcommittee took up the issue less than two weeks ago, Crowell did not appear because no decision had been reached.

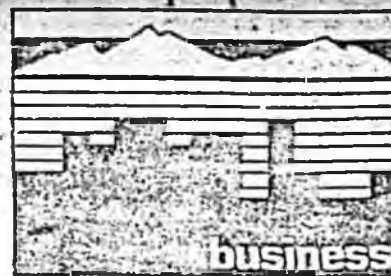
That prompted Sen. Mark Hatfield, R-Ore., and others to blast President Reagan for insensitivity to the economic plight of a region he visited only weeks earlier and pledged to help.

At issue is an economic crisis in Washington, Oregon, California and northern Idaho resulting from the large num-

ber of unprofitable contracts for national forest timber. Those states provide more than half the softwood lumber used in American home construction every year.

When the bottom dropped out of the housing market three years ago, lumber companies in the region, having bid premium prices for the right to federal timber during the frenzied days of the late 1970s building boom, were left holding contracts they could no longer afford to fulfill.

The situation has tied up as much as 16.6 billion board feet of federal timber worth more than \$5 billion and is forcing many of the companies holding those high-priced



contracts to the brink of bankruptcy.

Officials in and out of government acknowledge that if the companies are forced to live up to their contracts, they would be driven out of business and the government left with no revenue from the defaulted contracts.

Congress has been talking about the problem for more

Smelter

Continued from Page B-9

rate proceedings and determine the fate of the company's subsidiary, including the Fairbanks smelting outlet.

Dan Barrett, Fairbanks regional manager, was still in Vancouver and could not be reached for comment.

Sandra Thomas, Delta Smelting's agent in Anchorage, said she was unaware of the vote and declined to comment on the fate of the local office.

But Liebert said it is unlikely that unsecured creditors will recoup more than 10 cents on the dollar invested.

"There's about \$500,000 to \$600,000 in precious metals in the company's vault right now. And there are \$3 million plus in claims against it. Whether the creditors ever get their money back is the question," he said.

Owners of several larger Alaska mining operations said they became suspicious of Delta's operations and decided to pull out the metals they had on deposit.

But hundreds of independent gold miners may be left with nothing, leaving them out in the cold during the 1983 mining season, Liebert said.

Pure Gold
Pure Alaskan

Oxford
Mining & Refining Co.

PUBLIC NOTICE

OPEN BURN PERIOD FOR SPRING CLEAN-UP ANNOUNCED

Open burning for the disposal of small quantities of grass, leaves, weeds and other organic debris will be allowed during a ten (10) day period from May 6, 1983 to May 15, 1983, within the Anchorage Bowl area only. The burn period days are subject to daily approval by both the Anchorage Air Pollution Control Agency and the Anchorage Fire Department.

Hours allowed for open burning will be during daylight hours only.

Burn permits will be required from the Anchorage Fire Department and are available by telephone. The number to call

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STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Bill/Resolution No.: HB 392
Title: Emergency Loans for Certain Miners
Sponsor: Representative Bettisworth
Requestor: _____

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Development
Program Category Affected: Development
BRU, Program of Subprogram(s) Affected: _____
Division of Investments

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for analysis

Prepared By: Paul B. Arnoldt Director Phone: 465-2510
Division: Investments Date: 5/6/83
Approved by Commissioner: Richard A. Lyon Date: 5/9/83 465-2500
Department: Commerce & Economic Development

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

FOR: Rep. Bob Bettisworth
BY: Steve Frank

*not guaranteeing loss -
took a risk*

WORKING NOTES

EMERGENCY WORKING CAPITAL MINING LOAN PROGRAM

A. QUALIFICATIONS

1. Residents of State of Alaska, Partnerships and Corporations 51% owned by residents.
2. Miner or Mining Company verified by signed affidavit (Notorized) showing location of Mine, and how long they have been there, and signed by a witness.
3. Credit verification.

B. LOAN AMOUNT

100% of amount claimed as a creditor to Delta Smelting & Refining Company, Ltd. Not to exceed \$25,000 and not less than \$1000. (amount must be verified by the list prepared by the trustee in bankruptcy).

C. LOAN PURPOSE - WORKING CAPITAL

1. Repayment principal and interest by 12-31-83.
2. Interest rate - 10% per annum.

to allow miners \$ to get back in field this summer

D. COLLATERAL - NOT REQUIRED

E. SHOW INTENT FOR MINING THIS SEASON

Dan Barrett of Delta Smelting recognized \$2.3 million in Alaskan names. Total should be between \$2.5 and \$3 million. Canadian Dollars.

About 140 claims.

About 100 over \$1,000.00.

80 less than \$25,000.00.

12 between \$25,000.00 and \$50,000.00. 3 between \$50,000.00 and \$100,000.00, 5 over \$100,000.00.

CLAIMS OVER \$100,000.00

1. Au Placer, Inc.	293M
2. Little Creek Mining	174M
3. Richard Wilmarth	103M
4. Mr. & Mrs. R.E. Frith	109M
5. Charles E. Stout	111M
	<u>790M</u>

*- introduced 4-29-83
- referred Special Loan Comm. & Finance
- 1st hearing Mon 5-9-83 5 pm*

REP. BETTISWORTH

HB 392

This Bill is designed to loan temporary operating funds to Miners adversely impacted by the recent bankruptcy of Delta Smelting & Refining Co., Ltd. Many Miners and Mining Companies had gold on deposit and will not be able to resume mining this Spring without a simple, quick source of operating capital. Use of proceeds will be limited to fuel and other supplies necessary to begin this season's mining operations. Equipment and other long term investment will not be eligible for loan funds.

The Bill is designed to provide a simple application process that will be quick and uncumbersome. Time is of the essence, due to the short mining season.

1 IN THE HOUSE

BY BETTISWORTH

2

HOUSE BILL NO. 392

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to emergency loans for certain
7 miners; and providing for an effective date."

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

9 * Section 1. EMERGENCY LOANS FOR MINERS. (a) In addition to loans
10 that may be made under AS 27.09, the Department of Commerce and Economic
11 Development may make an emergency loan from the mining loan fund (AS 27.-
12 09.010) to an eligible miner or mining business that has entrusted precious
13 metal to the Delta Smelting and Refining Company, Ltd., and is unable to
14 obtain the return of the precious metal or reimbursement for the full value
15 of the precious metal. The emergency loan shall be for the purpose of
16 providing operating capital for the miner or mining business in 1983.

17 (b) To be eligible for a loan under this section a miner or mining
18 business must

19 (1) be a resident of the state or a partnership or corporation
20 in which a controlling interest is owned by residents of the state;

21 (2) hold a state mining license under AS 43.65.010;

22 (3) be engaged in mining in the state; and

23 (4) have a working interest in a mine or mining claim in the
24 state.

25 (c) A loan made under this section

26 (1) may not be for less than \$1,000;

27 (2) may not exceed the value of the precious metal entrusted to
28 the Delta Smelting and Refining Company, Ltd. or \$25,000, whichever is
29 less;

1 (3) shall bear annual interest at the rate of 10 percent; and

2 (4) must be repaid with accrued interest before January 1, 1984.

3 (d) An eligible miner or mining business may not receive more than
4 one loan under this section.

5 (e) Collateral or other security ^{will} [may not] be required for a loan made
6 under this section.

7 (f) A miner or a mining business that applies for a loan under this
8 section shall submit an application on a form prepared by the department.
9 The application shall include

10 (1) a signed and notarized affidavit verifying eligibility for
11 the loan;

12 (2) the signature of a person who attests to the applicant's
13 eligibility for the loan and the applicant's intent to use the loan money
14 for mining in 1983;

15 (3) proof of the value of the applicant's precious metal that
16 was entrusted to the Delta Smelting and Refining Company, Ltd.; and

17 (4) a statement of the applicant's assets and liabilities.

18 (g) The Department of Commerce and Economic Development may adopt
19 regulations to implement the provisions of this section. Regulations
20 adopted under this subsection are not subject to the requirements of the
21 Administrative Procedure Act (AS 44.62).

22 (h) In this section "precious metal" includes gold, silver, and
23 platinum.

24 * Sec. 3. This Act takes effect immediately in accordance with AS C.L.-
25 10.070(c).