

SB

359

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of \_\_\_\_\_ 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

\*\*FISCAL NOTE(S) ATTACHED \_\_\_\_\_ \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/20/88 DATE TURNED INTO OFFICE \_\_\_\_\_  
Mr. President:

FINANCE Committee considered SB 359

reorganization of private debt at a Delta Project; efd.

and recommended:

[ ] replace with CS \_\_\_\_\_ [ ] same title  
[ ] attached amendment(s) and [ ] new title

[ ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted and attached

\*\* Committee [ ] attached or [ ] adopted fiscal note(s)  
[ ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman signature and recommendation

[ ] Committee Backup Attached

Action reporting

out JB 359

rescinded 3/24/88 p.m.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of March 10, 1988 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

\*\*FISCAL NOTE(S) ATTACHED \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/20/88 DATE TURNED INTO OFFICE 3/24/88  
Mr. President:

Finance Committee considered SB 359

reorganization of private debt at a Delta Project; efd

and recommended:

- replace with "CS \_\_\_\_\_"  same title
- attached amendment(s) and  new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS  
[Signature] (No Rec)  
[Signature] (No Rec)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature] do pass  
Chairman signature and recommendation

Committee Backup Attached

Introduced: 1/20/88  
Referred: Finance Committee

5-1633A

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO. 359

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to reorganization of private debt at  
7 a Delta Project; and providing for an effective  
8 date."

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

10 \* Section 1. Sec. 4, ch. 109, SLA 1986 is amended to read:

11 Sec. 4. This Act is repealed July 1, 1990 [1988].

12 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

**ALASKA STATE LEGISLATURE**

15th . . . Legislature      2nd . . . Session

SENATE..BILL..... NO. 359.

By ....COGHILL.....

"An Act relating to reorganiza-  
tion of private debt at a  
Delta Project; and providing  
for an effective date."

Introduced in the Senate . 1/20 . . . . ., 19 88 . . .

**HISTORY IN THE SENATE**

19 88      Read first time and referred  
to Committee on

1 20 Finance  
Reported back with  
recommendation that

Read second time and

Read third time and

PASSED	Effective Date
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reconsideration  
Reconsideration not taken up

PASSED	Effective Date
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reported correctly engrossed  
Signed by President  
Sent to House

SECRETARY OF THE SENATE

**HISTORY IN THE HOUSE**

19      Read first time and referred  
to Committee on

Reported back with  
recommendation that

Read second time and

Read third time and

PASSED	Effective Date
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reconsideration  
Reconsideration not taken up

PASSED	Effective Date
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reported correctly engrossed  
Signed by Speaker  
Returned to Senate

CHIEF CLERK OF THE HOUSE

**HISTORY IN THE SENATE**

19      Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Chapter No. ....

Filed with Lt. Governor

FISCAL NOTE

REQUEST:

Revision Date: 3/18/88  
Title: Reorganization of Private Debt  
at Delta Project  
Sponsor: Senator Coahill  
Requestor: Senate Finance

Agency Affected: Natural Resources  
BRU: Agriculture Management  
Land and Water Management  
Components: Agriculture Management  
Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		108.1	108.1			
TRAVEL		5.0	5.0			
CONTRACTUAL						
SUPPLIES		1.0	1.0			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	114.1	114.1	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		114.1	114.1			
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	114.1	114.1	-0-	-0-	-0-

POSITIONS:

FULL-TIME		3	3			
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This fiscal note provides funding to process agricultural lands contracts in a timely manner and coordinate contract and loan closing between the Division of Agriculture and the Division of Land & Water Management from SLA 86 Ch 109 (SB 349).

Prepared by: Mark Weaver Dick LeFebvre Phone: 745-7200/762-2692  
Division: Agriculture Land and Water Date: 3/18/88

Approved by Commissioner: Tom Hawkins Date: \_\_\_\_\_  
Agency: Natural Resources

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Attached  
to  
bill when  
Reported  
Out.

Fiscal Note

Senate Bill 359

Analysis Continued

Since the original Delta debt bill, SB 349 was enacted, the contract administration unit in the Division of Land and Water Management (DLWM) has suffered a 50% reduction in personnel with no reduction in workload. The ARLF Board and small staff in the Division of Agriculture (DOA) have been attempting to process normal loan applications and, at the same time, process debt restructuring applications from farmers throughout the state.

Delta debt relief work in both divisions is progressing slowly because of the heavy workload staff members face. The additional positions on this fiscal note will allow more timely processing of Delta debt land relinquishments and ARLF loan restructures. Without these positions, work will progress at the current pace.

The funding will be used as follows:

1 Clerk Typist II	- DOA -	Range 7C	27.7
1 Clerk Typist II	- DLWM -	Range 7C	27.7
1 Natural Resource Manager I	- DLWM -	Range 18C	52.7

Travel (to Ag parcels)	5.0
Supplies	1.0

TOTAL	114.1
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Position Title Clerk Typist II		No. of Positions 2	Range/Step 7C	Barg. Unit CGU																																			
Time Status PFT	Staff Months 24	Location Anchorage		Election District EBA																																			
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>39.2</td> <td rowspan="4"></td> </tr> <tr> <td>Benefits</td> <td>16.2</td> </tr> <tr> <td>Premium Pay</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>55.4</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> </tr> <tr> <td>Commodities</td> <td></td> <td>0.3</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>55.7</td> </tr> </tbody> </table>		Type of Expenditure	Amount	1	2	3	Salary	39.2		Benefits	16.2	Premium Pay		Other		Total Personal Services		55.4	Travel			Contractual			Commodities		0.3	Equipment			Other			Total Cost		55.7	<b>Justification</b>  Two clerical positions are necessary to provide typing support and to maintain file systems for contracts and loan documentation associated with Private Debt Reorganization at Delta authorized under SLA 86, CI 109 and SB 359. Record maintenance is critical, as litigation involving this program is likely.  Failure to fund these positions may result in delays in contract and loan negotiations and processing.		
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**Request For  
New Position**

Agency Natural Resources  
BRU Land and Water Management  
Component Public Use

Page 3 of 4  
Revised Date

**FY 89**

Position Title <b>NATURAL RESOURCE MANAGER 1</b>			Nr. of Positions <b>1</b>	Range/Step <b>18 C</b>	Barg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12.0</b>		Location <b>Anchorage</b>		Election District <b>EBA</b>
Type of Expenditure			Amount		
1			2		3
Salary			40.0		
Benefits			12.7		
Premium Pay					
Other					
Total Personal Services			52.7		
Travel			5.0		
Contractual					
Commodities			0.7		
Equipment					
Other					
Total Cost			58.4		
Funding Source for Total Cost					
Federal Receipts 1002					
G. F. Match 1003					
General Fund 1004					
GF Program Receipts 1005					
Other I-A Receipts 1007			58.4		
Justification					
<p>This position, administered jointly by Division of Agriculture and the Division of Land and Water Management, will prepare agricultural contracts and subsequent amendments, complete contract assignments, payment moratorium requests, address defaults, foreclosures, and other contract maintenance functions associated with reorganization of Private Debt at Delta authorized under SLA 86 CI 109 and SB 359. This position will also coordinate, meet, and negotiate with the Division of Agriculture, ARLF, and the Ag contract purchaser to resolve conflicts to the best interest of the State and in accordance with developed policies and procedures.</p> <p>Failure to fund this position may result in delays in land contract and loan negotiations and processing.</p>					

**Request For  
New Position**

Agency Natural Resources  
 BRU Land and Water Management  
 Component Public Use

Page 4 of 4  
 Revised Date

**FY 89**

1/20/88

Contacted DNR  
(Nico Bus) this  
date. Requested  
that he expedite  
fiscal note.

3/11/88

Called again,                      KK  
Joe Burch  
said he would provide FN.

2:00pm

FISCAL NOTE

REQUEST:

Revision Date: 1/27/88  
Title: Reorganization of Private Debt  
at Delta Project  
Sponsor: Coghill  
Requestor: Senate Finance Committee

Agency Affected: Natural Resources  
BRU: Agriculture Management/  
and Land & Water Management  
Components: Agriculture Management/  
and Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		114.1	114.1			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	114.1	114.1	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		114.1	114.1			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3	3			
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This fiscal note provides funding to process agricultural land contracts in a timely manner and coordinate contract and loan closing between the Division of Agriculture and the Division of Land & Water Management from SLA 86 Ch 109 (SB 349).

Prepared by: Mark Weaver, Dick LeFebvre Phone: 465-2400  
Division: Agriculture Date: 1/22/88

Approved by Commissioner: [Signature] Date: \_\_\_\_\_  
Agency: Natural Resources

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Fiscal Note

Senate Bill 359

Analysis Continued

Since the original Delta debt bill, SB 349 was enacted, the contract administration unit in the Division of Land and Water Management (DLWM) has suffered a 50% reduction in personnel with no reduction in workload. The ARLF Board and small staff in the Division of Agriculture (DOA) have been attempting to process normal loan applications and, at the same time, process debt restructuring applications from farmers throughout the state.

Delta debt relief work in both divisions is progressing slowly because of the heavy workload staff members face. The additional positions on this fiscal note will allow more timely processing of Delta debt land relinquishments and ARLF loan restructures. Without these positions, work will progress at the current pace.

The funding will be used as follows:

The 114.1 in contractual for FY 89, FY 90 will be used by the DOA to fund one position in DOA and, through an KSA, fund two positions in the DLWM, as well as for necessary travel expenses and supplies.

1	Clerk Typist II	- DOA -	Range 7C	27.7
1	Clerk Typist II	- DLWM -	Range 7C	27.7
1	Natural Resource Manager I	- DLWM -	Range 18C	52.7

Travel (to Ag parcels)	5.0
Supplies	1.0

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TOTAL	114.1
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<p>Two clerical positions are necessary to provide typing support and to maintain file systems for contracts and loan documentation associated with Private Debt Reorganization at Delta authorized under SLA 86, CH 109 and SB 359. Record maintenance is critical, as litigation involving this program is likely.</p> <p>Failure to fund these positions may result in delays in contract and loan negotiations and processing.</p>				

**Request For  
New Position**

Agency Natural Resources  
 BRU Land and Water Management  
 Component Public Use

Page 3 of 4  
 Revised Date

**FY 89**

Position Title <b>NATURAL RESOURCE MANAGER I</b>			No. of Positions <b>1</b>	Range/Step <b>18 C</b>	Barg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12.0</b>		Location <b>Anchorage</b>		Election District <b>EBA</b>
			Justification		
Type of Expenditure			Amount		
1			2		3
Salary			40.0		
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**Request For  
New Position**

Agency Natural Resources  
 BRU Land and Water Management  
 Component Public Use

**FY 89**

Page 4 of 4  
 Revised Date

Senator John B. (Jack) Coghill  
Alaska State Legislature



Box V  
Juneau, Alaska 99811  
(907) 465-4797

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862

M E M O R A N D U M

To: Members of the Senate Finance Committee  
From: Senator John B. Coghill  
Re: SB 359, Extending the Delta Reorganization Bill  
Date: March 16, 1988

In 1986 a bill allowing the commissioner of natural resources to reorganize debt at Delta I and Delta II passed the legislature. This bill was SB 349. This bill had two hearings in Senate Finance and a special teleconference to gather intent statements so this bill would pass the test of constitutionality.

Now two years later the Division of Agriculture is just beginning to address the section which allows the commissioner, in consultation with the Agriculture Revolving Loan Board, to renegotiate terms for chattel or farm improvement loans. The department could administratively take actions similar to those taken by bankruptcy courts to assist farmers reorganize their debts. The Division of Agriculture has been implementing a restructuring of debt program, but I have concerns that this program does not meet the goals of SB 349.

I ask the committee to extend SB 349 for two more years as a form of protection against arbitrary inaction by the Division of Agriculture. So far I have been less than overwhelmed by the Division's ability to implement law.

# MEMORANDUM

# State of Alaska

DEPARTMENT OF NATURAL RESOURCES - DIVISION OF AGRICULTURE

TO: Judith M. Brady  
Commissioner

DATE: February 25, 1978

FILE NO:

TELEPHONE NO:

FROM:

SUBJECT:

03 343,200 (1978)

FROM:

Mark A. Heaver  
Director



This memorandum outlines the guidance provided to the Agricultural Lending Agency in deciding whether to accept applications for loans from the Department of 'restructuring' loans made by the Department imposed by 1966 AS ch. 107 107 107.

By law, this Authority has the authority to... and take immediate action, in order to... to minimize financial losses to the state.

Parliament Observations

Regulation of AS 107, the... authority to... to the fact... restructuring of... implementing these guidelines... written or oral.

If a decision is made by... of restructuring... implicit... to the extent of... and that restructuring... constitutes a... ARLE does not... the restructuring of...

It follows that if the Department... offer more liberal terms... violate the requirement... necessary to... applies to borrowers who are found by the Board... restructuring because they are not "financially... the meaning of the guidelines.

Thus, unless the Department... ARLE Board in such cases... pursuant to AS 107 is likely to be of no... A possible exception would occur if... to the state other than ARLE loans. In such an event, further guidelines

Commissioner Study  
February 22, 1949

will be required to determine if reorganization is appropriate. Further analysis also will be required under circumstances where the borrower is in genuine financial trouble and the Board declines to either restructure or reorganize the borrower's business.

It should be noted that relinquishment of land, stock, etc. in favor of Bank and Water pursuant to the Act has included the participation of many project participants. Additionally, the Federal Government's National Resources Program (NRP) has given many participants a right of first refusal, a predictable source of income that was not calculable at the time the Act was being adopted. As a result, it is not unusual to find financial analysis required by the Act, Division of Agriculture and renegotiation of farm loans can occur only after financial data is complete and the impact of various factors on the borrower's business has been projected with reasonable accuracy.

Procedure

The procedure steps being analyzed by the Board are:

- 1) Field interviews and data obtained from project participants and other sources to determine the borrower's financial position and the feasibility of the project.
- 2) Eligible borrower's financial statement prepared by the Board or other qualified person.
- 3) Analysis of the borrower's financial statement and other data to determine the borrower's ability to repay the loan.
  - a) History of the borrower's business.
  - b) Analysis of the borrower's financial statement.
  - c) Analysis of the borrower's financial statement.
  - d) Review of the borrower's financial statement and other data to determine the borrower's ability to repay the loan.
  - e) Recommendation of the Board regarding the loan.
- 4) The Board reviews the borrower's financial statement and other data to determine the borrower's ability to repay the loan. The Board also identifies the borrower's financial position and the feasibility of the project. The Board also determines the borrower's ability to repay the loan.
- 5) Regardless of whether the borrower's financial statement is satisfactory, the Board makes further findings and recommendations, changes in the loan (beyond any changes that may be made by the borrower) and necessary in order to stabilize the borrower's financial position. The changes may include whether to loan, the amount of the loan, the interest rate, the term of the loan, and other changes in terms and conditions of the loan. If the Board finds that the borrower's financial position is satisfactory, it will issue a loan agreement. If the Board finds that the borrower's financial position is not satisfactory, it will issue a denial of the loan. The Board also identifies the borrower's financial position and the feasibility of the project.

Page 3  
Complaints Study  
February 22, 1955

- 6) The Board's findings and recommendations, as stated by staff and are verified by the findings in the report submitted with respect to another complaint, shall be final and, if so, shall not be subject to appeal. The Board's preliminary findings are final and the Board shall be notified of any right to appeal within 10 days before the Board and the Director for the purpose of a factual disagreement.
- 7) After presentation, if any, the findings and recommendations of the Board are reviewed by the Director, who may, if the findings are adopted, advise the complainant that the findings are final and adopted unless they appear to be manifestly capricious, or the Board's findings are manifestly in error. In such an event, the Board shall be notified of the findings before adoption.
- 8) The findings and recommendations of the Board shall be final and shall not be subject to appeal. The Board's findings are final and the Board shall be notified of any right to appeal within 10 days before the Board and the Director for the purpose of a factual disagreement.

cc: The Honorable ...  
Hal Head  
...

AN ACT

Relating to the reorganization of private debt at a  
Delta Project.

---

\* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the large grain farms that were developed on state agricultural land in the Delta Projects are subject to a personal debt load that is unmanageable because of a coincidence of unique and unforeseen circumstances:

- (1) the unforeseen difficulties with the limited growing seasons including the extremely short period in which the crops may be planted;
- (2) conflicts with the herds of bison located in the area;
- (3) the inadequate agricultural infrastructure in the area of the Delta Projects and in the state;
- (4) the depressed grain prices nationwide;
- (5) the unexpected problems with economic farm size.

\* Sec. 2. (a) The commissioner of natural resources shall, at the request of an individual who holds agricultural rights to land purchased from the state in a Delta Project,

- (1) accept the relinquishment of agricultural land purchased from the state in a Delta Project and credit the percentage of the debt owed to the state on land purchased and land clearing loans that equals the percentage of land relinquished under this section, either by acreage or by value, as determined by the commissioner;

- (2) enter into an agreement with the individual for the lease for agricultural purposes only of a portion of or all of the land



Chapter 109

1 relinquished for a term of 20 years at the full fair market value of the  
2 land; a survey under this paragraph, if required, shall be at the expense  
3 of the individual.

4 (b) If an individual who has relinquished land under this section  
5 applies before July 1, 1987 for a lease on all or part of the land relin-  
6 quished, the lease shall provide the lessee an option to purchase the land  
7 leased under (a)(2) of this section at full fair market value at the time  
8 of purchase without reduction to reflect the remaining lease term.

9 (c) The commissioner of natural resources in consultation with the  
10 Agricultural Revolving Loan Board may renegotiate with the individual loans  
11 for chattels or farm improvements located on the agricultural land in a  
12 Delta Project if the commissioner determines that renegotiation is neces-  
13 sary to minimize financial losses to the state and that it is in the best  
14 interest of the state.

15 \* Sec. 3. The provisions of this Act are not available to an individual  
16 participating in a federal farm program that provides monetary or other  
17 incentives for keeping agricultural land in a Delta Project out of produc-  
18 tion.

19 \* Sec. 4. This Act is repealed July 1, 1988.  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Source  
SCS CSHB 1

Allowing a  
effective

BE IT ENACT

Approved  
Actual Ef

Senator John B. (Jack) Coghill  
Alaska State Legislature

Box V  
Juneau, Alaska 99811  
(907) 465-4797

Box 55028  
North Pole, Alaska 99705  
(907) 488-0862



M E M O R A N D U M

TO: Sheryl Frasca  
Senate Finance Committee

FROM: Elizabeth Ziegler  
Senator Coghill's office

RE: Background on SB 359

DATE: February 2, 1988

Senator Coghill would like SB 359 to be scheduled soon. As I mentioned on the phone, the Division of Agriculture has been less than helpful in its implementation of SB 349, the original bill passed in 1986.

The Senator's goal was to create a financial plan which would give the farmer's on the Delta projects an option to bankruptcy. Most of the farmers in the area are seriously and outrageously in debt. Because the big ag project scenario never materialized, Delta farmers were left with equipment loans and land payments they could not service because of lack of production.

Sen. Coghill felt that the state was just as much at fault for luring the farmers into the pipedream, as the farmers were for buying it.

SB 349 would have allowed farmers to relinquish part of their land and lease it back at lower cost with the resultant effect of lowering their land payments. This aspect has gone well since the Division of Land and Water Management is in charge on the program.

The other section of 349 would allow the commissioner in consultation with the Agricultural Revolving Loan Board to renegotiate loans on chattel and farm improvements if the commissioner determines that renegotiation is needed to minimize financial losses to the state and that it is in the best interest of the state. This section has been ignored by the Department.

Our office has been trying to get a position from the Division of Ag or the commissioner's office since last spring. The Senator met with Commissioner Brady in August to arrange a meeting with the Delta farmers. The Commissioner bowed out and the meeting never took place. We have called repeatedly on a position paper and we have been told that something will come out, but it never has.

Our understanding is that a mid-level division person has designed a debt restructuring program and the commissioner would like to implement this statewide. From our analysis of the restructuring program, it does not look like this is a better alternative to bankruptcy than SB 349. Of course we do not know for sure because the Department has never responded to our inquiries on a comparison between restructuring and reorganization under SB 349.

It is the commissioner's position that the Delta farmers should not be given any more special breaks. We argue that the state would be in a better position under 349 reorganization, since the farmers in Delta believe bankruptcy is better than the Division's restructuring program. Of course, none of us are sure because the Department has never run an analysis on the differences between the programs. (At least they never admit that they have.)

So this brings up to SB 359. We would like the program extended so we can continue to demand an analysis of the programs. We believe the division middle management is looking forward to the expiration of the program and has intentionally been dragging its feet.

The Senator would like the various players in this saga to explain why this bill has not been implemented and do so before the Senate Finance Committee.

Those involved include: Comm. Brady, Mark Weaver, Director of the Div. of Agriculture, Hal Ward, Loan Manager and a member of the Agricultural Revolving Loan Board.

# MEMORANDUM

# State of Alaska

Honorable Judy Brady  
Commissioner  
Department of Natural Resources

TO: DATE: 663-87-0199  
FILE NO: 465-3600  
TELEPHONE NO.  
SUBJECT: Reorganization of private debt at Delta ag. projects

THRU: Ronald W. Lorensen  
Acting Attorney General

By: G. Thomas Koester *GTK*  
Assistant Attorney General  
Department of Law

FROM:

Prior to your appointment, we were asked our opinion regarding the provisions of ch. 109, SLA 1986, an Act relating to the reorganization of private debt incurred as a result of agricultural development near Delta. As a general matter, the Act was intended to reduce the adverse impact of large debt and debt service loads on the state's fledgling agriculture industry in the Delta area.

① The first question is whether only individuals who participated in the Delta I and Delta II state agricultural disposals can avail themselves of the benefits of the Act, or whether those benefits also are available for other, smaller farm disposals which preceded the Delta I and II actions (specifically including Tanana Loop and Four-Mile Hill). We believe the specific extension of the benefits to "an individual who holds agricultural rights to land purchased from the state in a Delta Project," coupled with other references to "Delta Projects" and "large grain farms that were developed on state agricultural land in the Delta Projects," requires that the benefits of this bill be limited to those individuals who participated in the Delta I and II disposals. This comports with the general understanding of the legislative committees that held extensive hearings on this bill.

Section 2(c) provides:

The commissioner of natural resources in consultation with the Agricultural Revolving Loan Board may renegotiate with the individual loans for chattels or farm improvements located on the agricultural land in a Delta Project if the commissioner determines that renegotiation is necessary to minimize financial losses to the state and that it is in the best interest of the state.

The first question under this provision is whether the reference to "chattels or farm improvements" limits the commissioner's

Honorable Judy Brady  
Commissioner, DNR  
Our File No. 663-87-0199

January 22, 1987  
Page 2

2 } authority to those two loan categories, excluding other kinds of loans (e.g., operating, irrigating, product processing, and clearing). We believe that the authorization is limited to loans for "chattels or farm improvements." However, that does not end the inquiry, because the legislature did not define the scope of loans falling within those two categories. Loans for operating expenditures and product processing almost certainly do not fall within those two categories. However, it is conceivable that the legislature, in using the term "farm improvements," intended that term to include loans made for irrigation systems and for clearing. Our understanding of the legislative history of the bill is that the legislature did intend to include at least clearing loans in the authorization. The department, therefore, could, preferably by regulation, define the phrase "loans for chattels or farm improvements" to include irrigation and clearing loans if, in the department's view, that was the legislature's intent.

3 } Another question under sec. 2(c) is whether the authority to "renegotiate" these loans includes the authority to write-down the principal and interest on loans or, alternatively, only to change the terms and conditions of repayment without authority to decrease the total amount due. In our view, the legislative history of the section makes clear that the legislature intended to grant the authority to write-down principal and interest as well as authority to renegotiate the terms of repayment. In a February 19, 1986, memorandum to the Senate Finance Committee, Senator Coghill (a co-sponsor of SB 349, the bill which became ch. 109) the bill would have the following effect: "The notes on chattels and farm development could be written down to a level that the farmer could service and would insure [sic] that the state will come out in a better position than it would have if the loans wouldn't have been rewritten." At an April 25, 1986, meeting of the House Resources Committee, Frank Mielke of the department stated:

[Section 2(c)] allows for writing down the debt. In section 2 as far as writing down the debt that is something we have the authority to do under federal bankruptcy law when we are in federal bankruptcy court and this would allow us to do the same outside of bankruptcy.

House Resources Committee Tape #108, Side One, Meter No. 237. Accordingly, we believe this gives the commissioner, in consultation with the Agricultural Revolving Loan Board, discretionary authority to write down both principal and interest "if the commissioner determines that [such a write-down] is necessary to minimize financial losses to the state and that it is in the best

interest of the state" to do so. This finding would be necessary to satisfy the public purpose requirement in article IX, section 6, of the Alaska Constitution.

(4) Section 3 provides: "The provisions of this Act are not available to an individual participating in a federal farm program that provides monetary or other incentives for keeping agricultural land in a Delta Project out of production." Some disagreement has arisen as to which farm programs disqualify an individual from taking advantage of the provisions of the Act. This requires the department to determine (again, preferably by regulation) which farm programs actually provide monetary or other incentives for keeping agricultural land "out of production." In our view, the intent of the legislature was to continue the policy of encouraging agricultural development in Alaska by reducing the onerous debt load but, at the same time, preventing a situation from developing in which an individual could reduce his debt load but continue to receive federal benefits from inaction with respect to agricultural development. The legislature was unclear as to precisely which federal programs provided such incentives; as a result, it left the language general. It is now up to the department to make the necessary determinations on a program-by-program basis. For example, if a federal program provides monetary or other incentives for keeping land out of production over a substantial period of time to enable the land to return to its natural condition, the individual participating in that program would not be eligible for benefits under the Act. However, if the federal government provides monetary or other incentives for a specific cycle of crop rotation that might include a period during which the land would lie fallow for soil regeneration purposes, an individual participating in that program might not be disqualified from receiving benefits under the Act because the land would not be taken "out of production"; instead, the incentive would be directed at both keeping the land in production and increasing that production through soil enhancement.

(5) Finally, we were asked to address the interplay between chapter 109 and the department's Decision Memo 91. It is axiomatic that the provisions of law govern administrative decision-making. Therefore, to the extent chapter 109 and Decision Memo 91 are inconsistent, the provisions of the Act control.

Honorable Judy Brady  
Commissioner, DNR  
Our File No. 663-87-0199

January 22, 1987  
Page 4

We hope this answers your questions. If we can be of further assistance, please contact us at your convenience.

GTK/dlm

cc: Honorable John B. (Jack) Coghill  
Alaska State Senate

Honorable Jalmar M. Kerdtula  
Alaska State Senate

Honorable Jim Barnett  
Deputy Commissioner  
Department of Natural Resources

Bill Heim, Director  
Division of Agriculture  
Dept. of Natural Resources

John Messenger, Chairman  
Agricultural Revolving Loan Fund

Hal Ward, Manager  
Agricultural Revolving Loan Fund

Tom Hawkins, Director  
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Frank Mielke  
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Division of Land & Water Management  
Dept. of Natural Resources

Carol Wilson  
Office of the Commissioner  
Dept. of Natural Resources

Mr. Mike Schultz  
P.O. Box 1284  
Delta Junction, AK 99737

# DELTA DEBT RELIEF

<u>Parcel/Owner</u>	<u>Debt Land/Clearing</u>	<u>Status</u>
A-Walsky	\$111,794/300,976	Applied/development default; attempting to cure
B-Rule	\$122,007/399,714	Repurchased opted for, eligible to repurchase @ \$92,439
C-Bannon	\$163,667/422,183	Applied; has not selected options
D-Giese	\$104,000/335,845	Applied; has opted to repurchase for \$89,315
E-Wright	\$175,159/219,916	Did not apply; development default; Bankruptcy
F-Green	\$128,093/590,971	Repurchased for \$107,039 - DONE
G-Olson	\$142,244/407,983	Applied/development default; attempting to cure
H-Engellant	\$159,778/412,153	Applied, has not selected option
I-Karr	\$144,177/436,089	Repurchased for \$108,388
J-Emery	\$131,756/517,963	Applied; has not selected option
K-Kelley	\$144,363/452,354	Applied/development default/has appealed
L-Fett	\$160,954/446,599	Applied/Eligibility uncertain
M-Mitchell	\$168,253/535,530	Applied; has not selected option
N-Brehmer	\$103,867/370,910	Applied; Contract amendment sent repurchase @ \$97,765
O-Hollembaek/ Buck	\$139,552/429,703	Applied; have not selected option
P-Carlyle, Inc.	\$135,674/390,150	Repurchased for \$97,348.83 - DONE
Q-Strong	\$132,535/363,773	Repurchased for \$101,500.11 - DONE
R-Helken	\$128,487/406,710	Applied; has not selected option
S-Green	\$177,425/574,828	Applied; has not selected option
T-Rutt	\$144,629/389,883	Applied; has not selected option
U-Dodson	\$142,434/346,138	Applied; has not selected option
V-Nelson	\$117,871/246,858	Repurchased for \$72,871 - DONE
I-Magee	\$252,000/198,128	Relinquished in total

22  
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DNR  
3/24/88

2-Brown	\$226,000/142,610	Applied/Development default, foreclosure initiated
3-Magee	\$234,000/280,958	Relinquished in total
4-Trowbridge	\$266,000/245,649	Applied; has not selected option
5-Schultz	\$300,000/309,860	Repurchased for \$88,015 - DONE
6-Nelson	\$287,000/294,295	Repurchased for \$74,248 - DONE
7-Holcomb	\$216,000/162,635	Has selected option to repurchase for \$31,280
8-Cho	\$394,000/70,182	Relinquished in total
9-Kim	\$388,000/51,116	Relinquished in total
10-Cho	\$390,000/132,860	Relinquished in total
11-Kraus	\$273,000/222,162	Applied, documents being prepared, repurchase for \$61,543
12-Orcutt	\$415,000/312.161	Applied, ineligible - Bankruptcy
13-Kraus	\$286,000/268,272	Documents being prepared to repurchase for \$82,214
14-Rouse	\$213,000/32,460	Has not applied; ineligible development, foreclosure
15-Green	\$268,000/158,031	Relinquished in total
P-Nelson	\$43,691/89,820	Repurchased for \$15,780 - DONE