

HB

10

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

3/9/87

DATE TURNED INTO OFFICE 3-16-87

Mr. President:

STATE AFFAIRS

Committee considered CSHB 10(Fin)am

minting and sale of commemorative gold and silver medallions; efd.

and recommended:

- replace with _____ CS FOR _____) same title
- or adopt _____ CS FOR _____) new title
- attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

- new updated or previous
- zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe Fink

Rich Bell

Walter Hinkle

Lee Josephson

George W. ...
 Chairman signature and recommendation

Committee Backup Attached



Alaska State Legislature

Representative Mike Davis

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 61435
Fairbanks, Alaska 99708

TO: Sen. Abood
Chairman, Senate State Affairs Committee

FROM: Rep. Mike Davis *Mike*

DATE: March 9, 1987

RE: CSHB 10 (Fin) am; Relating to the minting and sale
of commemorative gold and silver medallions

I am writing to request a hearing for CSHB 10 (Fin)am in the Senate State Affairs Committee. Attached is backup material on the bill. Please call me if you would like to discuss this legislation.

CSHB 10 (Fin) directs the Department of Administration to contract for the minting and sale of Alaska commemorative gold and silver medallions. The state will receive a royalty from their sale. The bill specifies that Alaskan gold and silver must be used in medallion production.

One side of the medallions will bear the state seal, and the other a design selected through an annual contest. Only designs using an Alaska theme and submitted by an Alaska resident may be considered in the contest.

The purposes of CSHB 10 are to increase awareness of the Alaskan mining industry within and outside of the state, to support Alaskan businesses, and to generate modest amounts of revenue for the general fund.

Based on the popularity of gold coins being produced by the U.S. Mint, the increasing number of visitors to Alaska, and the interest in this legislation shown by precious metal dealers, it is believed that Alaska gold and silver pieces would be well received by the public. If CSHB 10 became law, Alaska would join Texas, California, and South Dakota in authorizing the production of state medallions.

RECEIVED
MAR 10 1987

Rep. Mike Davis
March 9, 1987

Sectional Analysis of CSHB 10 (Fin) am

An Act Relating to the Minting and Sale
of Commemorative Gold and Silver Medallions

Section 1 AS 44.09 is amended by adding a new section:

(a) Authorizes the Department of Administration to contract for the minting and sale of the medallions in weights determined by the commissioner. Gold and silver mined in Alaska must be used in the production of the medallions. The state shall receive a royalty from their sale to be determined by the commissioner.

(b) Governs the medallion design. One side of the medallions shall contain the state seal. The design for the other side shall be determined in an annual contest conducted by the contractor under the supervision of the Department. Only designs using an Alaska theme and submitted by an Alaska resident may be considered in the contest. Payment for the winning design may not exceed \$1,000.

(c) Requires the contractor to submit to the legislature an annual report of the production and sale of the medallions.

Section 2 Immediate effective date

March 9, 1987
Rep. Davis

Answers to Frequently Asked Questions About CSHB 10 (Fin) am

1. What are the objectives of CSHB 10?

The goals of CSHB 10 are to increase awareness of the Alaskan mining industry within and outside of our state, to support Alaskan businesses, and to generate modest amounts of revenue for the general fund.

2. Why use the word "medallion" instead of "coin"?

A "coin" is legal tender. Article I, Section 10 of the U.S. Constitution prohibits states from coining money.

3. What weight medallions will be issued?

CSHB 10 allows the Commissioner of the Department of Administration to determine which weights are most appropriate and marketable. One ounce and quarter ounce gold medallions and one ounce silver medallions will probably be desirable.

4. What will the retail price of the medallions be?

The retail price will be determined by the contractor who will take into account the cost of production and marketing, the royalty to the state, and his or her profit margin. The current price of gold U.S. Eagle coins is \$432.00 for one ounce, \$227.00 for one half ounce, \$119.00 for one quarter ounce, and \$52.50 for one tenth ounce. One ounce silver medallions generally cost less than \$30.00.

5. Why use .999 fine gold and silver?

The gold content of gold bullion pieces is ordinarily between .900 and .999.9. High gold content may make the Alaska medallions more appealing. Two of the most popular gold coins on the market, Canadian Maple Leaves and Chinese Pandas, are .999 fine (24 karats).

6. Can the medallions be produced in Alaska?

There is no mint in Alaska capable of refining and manufacturing bullion medallions. The Department of Administration intends to award a single bid for production and marketing of the medallions. An Alaskan firm could contract with an outside mint for their manufacture. Alaskans would receive the standard 5% bidder preference.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: CSHB 10(FIN)
Publish Date: _____

REQUEST: _____

Revision Date: 2/21/87
Title: Minting and sale of commemorative
gold and silver medallions
Sponsor: Davis
Requestor: House Finance Committee

Agency Affected: Administration
BRU: General Services & Supply
Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The \$500 requested can be absorbed in the department's operating budget.

Prepared by: Al Adams, Chairman ^{AK-1} Phone: 465-3706
Division: House Finance Committee Date: 2/21/87

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 10
Publish Date: _____

REQUEST _____

Revision Date: _____
Title: An Act Relating To Minting
Commemorative Coins
Sponsor: Davis
Requestor: _____

Agency Affected: Department of Administration
BRU: General Services & Supply
Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	.5	.5	.5	.5	.5
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	.5	.5	.5	.5	.5
CAPITAL	0	0	0	0	0	0
REVENUE	0	*	*	*	*	*

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	.5	.5	.5	.5	.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	.5	.5	.5	.5	.5

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

The contractual services funds will pay for advertising for the design competition and Invitation to Bid for the contractor. We would require the contractor to fund the design competition prize. We have no way to estimate potential revenue from program.*

Prepared By: Bob Link Phone: 465-2250
Division: General Services & Supply Date: 1/23/87

Approved by Commissioner: Garrey Peska Date: 1/27/87
Agency: Department of Administration

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



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P. O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

December 3, 1986

MEMORANDUM

TO: Representative Alyce Hanley

ATTN: Cassie Russell

FROM: Mary Jennings *MJ*
Legislative Analyst

RE: State-Issued Bullion Pieces
Research Request 87.039

You requested information regarding the production of state-issued bullion pieces in California, South Dakota and Texas. You requested that we determine the following: what legislation and regulations in conjunction with the legislation were required to institute the programs; how the state share of the proceeds is determined and if state proceeds from the program are applied to a specific program area; who mints the pieces and how the mints were chosen; how the design for the pieces was chosen; what metals are used; how the prices are set; the sizes of pieces that are being produced; how the piece dealers are chosen; what type of record keeping system is utilized between the state and the dealers; and how the pieces are being marketed.

California

Legislation. During 1982, the state of California adopted sections 7551 through 7556 of the State Government Code, which allow the state to contract with a mint for the production of commemorative gold medallions.¹ On May 15, 1984, Rarities Mint of Anaheim, the only mint expressing interest in the program, was awarded a five-year production contract. The California Department of General Services State Office of Procurement drafted the contract and administers the program.

¹State issued bullion pieces may be referred to as bullion, medallions, or bullion medallions. The pieces may not be called coins, a term which can be used only for federally issued bullion pieces.

Design. According to Jeannine Gendar of the Office of Procurement of the Department of General Services, the design for the medallions was chosen by the legislature and consists of the Great Seal of the State of California on one side and the State Bear, the term "California Gold", the date, the mint mark, the size, the term ".999 fine", and 31 small stars on the other. The coins are minted in one-ounce, half-ounce, quarter-ounce and tenth-ounce weights. The prices for the medallions are set by the mint and reflect the market value of gold plus the cost of production. The medallions are exempt from sales tax.

Royalties. The state receives the following royalties for the medallions: one ounce, four dollars; half ounce, two dollars; quarter ounce, one dollar; and tenth ounce, fifty cents. Proceeds are deposited into the General Fund. Sales of the medallions began during August of 1984 and as of November 1, 1986, California has received \$71,000 in royalties from the sale of 17,900 ounces of gold. Royalties, which are paid in advance, are based upon a monthly production schedule submitted to the Department by Rarities. Rarities also submits a monthly statement of the number of medallions actually minted, including sizes and serial numbers. The mint must furnish a yearly statement detailing sales. The department reserves the right to audit all records.

Marketing. Rarities conducts and pays for the cost of all marketing and advertising of the medallions although the state sets certain guidelines. The contract states that the advertising must be aggressive and on the national level in the advertising medium of Rarities' choice. All advertising is submitted to the department before publication for review.

South Dakota

Legislation. During 1985, the South Dakota Legislature passed Senate Bill 191, which allows the state to contract with a South Dakota mint for the production of bullion pieces. Two bullion programs are currently being developed. One program, aimed at South Dakota residents, will offer gold, silver, and bronze medallions commemorating the state's centennial and the other will offer gold and silver bullion on a national level. Production is planned to begin in early 1987. The State Bureau of Administration, which oversees the programs, is currently in the process of drafting a contract with Tri-State Refining and Investment, the only mint in South Dakota.

Design. Commemorative medallions will be issued in five-ounce, one-ounce and half-ounce weights and will be sold singly and in sets. Jewelry and belt buckles will also be produced. All medallions will bear the state seal on the front and a mother and child standing on the prairie on the reverse. The reverse side design was obtained in a contest open only to South Dakota residents. The medallion will be produced through 1989, the state's centennial.

Representative Hanley
December 3, 1986
Page 3

The national program of gold and silver bullion is legislated to be a permanent program. The pieces will be minted with the state seal on one side and a bison on the reverse. The bison, which was second in the commemorative design contest, was chosen at the discretion of the bureau. Five, two, one, one-half, one-fourth, and one-tenth ounce pieces will be minted.

Royalties. Under the terms of the contract, Tri-State will present a monthly statement of sales to the mint and pay royalties based on a percentage of the wholesale price of pieces sold. According to Mr. Moisan of the Bureau of Administration, the percentage has not yet been determined. The price, which will be set by the mint, will reflect the market value of the metals plus production costs. The bureau will have the right to audit all records.

The proceeds from the sale of the programs will go to the construction of the Cultural Heritage Center in Pierre, South Dakota. The project is estimated to cost \$6 million. The legislature will determine other uses for the royalties when financing for construction of the center has been fulfilled.

Marketing. Under the terms of the contract, the state will assist Tri-State with the marketing of the commemorative medallions. The marketing of the bullion pieces will be performed solely by the mint under guidelines set by the state. The contract lists two nationally known dealers that the mint must contact and also names several newspapers that the mint must utilize for advertising. The contract also states that the mint must use radio and television. All advertisement must be sent to the Bureau of Administration for approval.

Texas

Legislation. During May of 1985, the Texas Legislature adopted Senate Bill 1002, which created a program for production of materials to commemorate the Texas Sesquicentennial during 1986. A section of the bill allowed for the state to contract with private manufacturers for the production of gold and silver bullion medallions. The Texas Sesquicentennial Commission, which administers the program, contracted with Colonial Coins and Silver Creations, both of Texas, to strike the pieces. The contracts are scheduled to be renewed January 1, 1987. If no additional legislation is passed, the program will end on June 30, 1987.

Design. The legislation mandates that all pieces depict the front and back of the Great Seal of the State of Texas, which is a star on the front and the six flags of Texas on the back. The pieces are also inscribed with .999 fine, the weight, 1986 and the mint mark. One-ounce, half-ounce, quarter-ounce and tenth-ounce gold pieces and a one-ounce silver piece are being produced.

Representative Hanley
December 3, 1986
Page 4

Royalties. The mints present a monthly sales statement to the state and pay royalties of two percent of the wholesale price of the pieces sold. The price reflects the current market value of the metals plus production costs. The pieces are exempt from state sales tax. Sales of the gold bullion began in July of 1986 and the silver was offered for sale in September. According to Joanne Brown, Marketing Product Director for the commission, the state has received approximately \$4,500 in royalties thus far. As mandated by the legislation, the proceeds from the sale of all sesquicentennial products go to the Sesquicentennial Fund, which is divided equally between the Texas Tourism Commission and the Texas Commission on the Arts.

Marketing. The mints are responsible for the marketing and advertising of the bullion. All advertising must be approved by the commission 30 days before publication. The advertising medium is at the discretion of the mints.

* * * *

I hope you find this information useful. I have attached pertinent legislation and a copy of the production contract from California. I have requested similar materials from South Dakota and Texas and I will forward them to you when I receive them. I have also attached a newspaper article regarding gold and silver medallions being offered by the University of Alaska. Please feel free to contact me if you have any questions.

MJ

Attachments

seems to me that de-
ly. Marketing, period, is all they seem concerned
about."

"Family of Eng...

States strike up gold bullion piece presses

By Michele Orzano

South Dakota may soon join California and Texas as a producer of bullion pieces. The appeal of royalties being deposited in the state's treasury and the chance to commemorate historically significant events in the state has enhanced the idea of state-issued bullion pieces.

Both California and Texas bullion pieces are exempt from state taxes while South Dakota has yet to tackle that question. California bullion pieces have been on the market for more than a year while Texas just released its first bullion piece in early May. South Dakota is in the process of conducting a statewide design contest and expects to release its first bullion piece

sometime during the state's centennial in 1989.

The producers of the California pieces think it is fitting that California was the first state to issue its own bullion pieces since California was the origin of the 1840s Gold Rush. Collectors and investors can buy California Gold in 1-ounce, half-ounce, quarter-ounce and soon a tenth-ounce size. The California legislature authorized the production of gold bullion pieces in 1983 in an effort to bring more revenue into a sagging state treasury, according to Ian Simpson, president of Rarities Mint which has a contract to strike the pieces.

California — whose nickname the "Golden State" can still evoke images of scruffy miners hauling sacks of gold into the town assay office — has survived the waves of dreamers whose eyes reflected the gold they envisioned hidden just a shovel scratch away. Now more than 100 years later and several hundred miles to the south of where it all started, is the Rarities Mint in Anaheim which produced some 12,000 pieces of California Gold in 1985.

Seeks Japanese outlets

"We strike as many as we can sell. We only struck 500 in 1984 because it was around the time of the Olympics," Simpson said. "Once the one-tenth ounce is released we will be selling it in Japan to compete in their 'gold rush' they are experiencing."

The California general fund receives \$4 for each

ounce of California Gold sold, Simpson said, but added he would like to see those royalties go to a more specific fund, something for the handicapped or elderly. He said legislation is being discussed now to direct the legislature towards that goal.

Although the original legislation mandated only California-mined gold be used in the production of the pieces, Simpson said the law was recently amended to allow purchase of gold from any American-based mine. In keeping with the theme of a strong California and America, the obverse features the California brown bear while the reverse bears the Great Seal of the State of California.

Please turn to page 19



California Gold is among several state-issued gold bullion pieces.



Texas has entered the gold bullion piece market with this six flags design.



States use gold to inflate state coffers

For the 1986 issues, Simpson said the bear design has been modified to make the bear appear bolder looking and the 31 stars surrounding the bear will appear more three dimensional. The issue date will be at the bottom of the obverse rather than to the side as in previous issues.

"We envision these will surpass the popularity of the [Chinese] Panda [gold bullion coin] — it's a piece of American history," Simpson said. "We like to document history in story format."

The bullion pieces are sold nationwide by coin dealers and direct from the Rarities Mint. Simpson said he does not believe the upcoming U.S. bullion coins will hinder the sale of California Gold because his product is not monetized and is pure gold (the U.S. coins will have a fineness of .917, but will contain a full measure of pure gold). The price is spot plus 4.5 percent which averages out to \$15 to \$18 over spot, he said.

Rarities also issues California Gold Proof sets on a limited basis with 1,000 sets in 1986.

Texas bullion pieces

Texas is hoping the increased interest in U.S. gold bullion pieces will continue and help sales of the Texas gold and silver bullion pieces released this year.

The 1-ounce bullion pieces are making their debut in Texas to coincide with the state's Independence Sesquicentennial which makes the prospect of boosting the Texas Historical Society's bank account nearly a sure thing.

That is where the profits from the sale of the Texas pieces is to go, according to legislation authorizing the 1-ounce silver and the gold 1-ounce, half-ounce, quarter-ounce and tenth-ounce sizes.

Dr. G.W. Vogt of Colonial Coins in Houston, which has the contract to strike the pieces, says public interest has been good considering the pieces just recently became available. All five pieces depict the front and back of the Great Seal of the State of Texas.

"Few people know about the back of the seal. In 1961 the daughters of the Texas Revolution succeeded in getting the state to adopt the reverse," he said. The reverse shows the six states of Texas flanking three important events in Texas history — the Alamo, the "Come and Take It Cannon" and a broken pipe representing the break with Mexico.

Vogt said the story behind the cannon is another interesting bit of Texas history. In the early 1830s, when Texas was still part of Mexico, the Comanche Indians were attacking the town of Goliad and the citizens asked the Mexican government for help in fending off the attacks.

The Mexican government sent a cannon for Goliad's defense. Then, during the Texas revolution when the Mexicans asked for the cannon back, the residents of Goliad told them to "Come and Take It," Vogt said, thus marking an important turnaround in the revolution. As the Texans fled from the advancing Mexican army, they took the cannon with them and buried it in the desert, never to be found, he said.

The fractional pieces will be in production by June 10, he said. All five pieces will be issued every year and the design and the date will change annually, he said.

He said the popularity of the bullion pieces will probably center in Texas although they are available all across the country.

"Most Texans are proud to be Texans and I feel these will be as popular an item as the [Canadian] Maple Leaf and [South African] Kruggerand," he said.

South Dakota considers

By the end of June, South Dakota residents will know the design to be used on the limited editions of 5-ounce gold, silver and bronze and the 1-ounce gold, silver and bronze bullion pieces.

That's the deadline date for entries from South Dakota artists to be submitted to the design contest, according to John Molsan, chairman of the centennial coin contest. The Great Seal of the State of South Dakota will grace the obverse and a design incorporating some aspect of South Dakota will be on the reverse.

Molsan said a \$1,000 prize will be given to the winning artist and Homestake Mining Co. will donate 1 ounce of gold to the winner. After the design is selected in a ceremony at the South Dakota Capital Building July 10, Tri-State Refining and Engineering in Sioux Falls, S.D., will begin striking and marketing the bullion pieces.

The bullion pieces will be sold in 5-ounce and 1-ounce sets of gold, silver and bronze and will be numbered for the limited editions. After those limited edition sets are produced, the remaining pieces will be struck and be 1.25 inches in diameter.

"We want to play with collector interests but we also want to gear it towards something a grade school kid could have a souvenir of the centennial," he said. The law

authorized centennial jewelry to be made in the district's South Dakota Black Hills gold, he said.

A percentage of the proceeds will go toward construction of the Dakota Heritage Center to house the relics and other historic memorabilia of the state now stored in a leaky basement of a museum, Molsan said. With that as a goal, supporters are looking for this to be a long-term project, he said.

"We're at liberty to do whatever the market will bear," Molsan said. "We're billing this as the only state that produces and mines its own bullion pieces since we sell our gold to California."

By law individual states cannot strike legal tender coins, although they may strike commemorative medals or bullion pieces. According to Ken Gubin, general counsel for the U.S. Mint, many people misuse the word coin but the difference between a coin and a medal is the legal tender status of the coin.

Gubin said Article I, Section 10 of the U.S. Constitution specifically prohibits states from coining money and he called it "highly inadvisable" to use the term "coin" when referring to the state-issued bullion pieces.

He said if an advertisement for the product would contain the word "coin" it might be a matter for the U.S. Postal Service or the Secret Service to look into.

"The Mint does not have any enforcement powers so we would refer it to the appropriate agency," Gubin said. "While it is an easy enough mistake to make in advertising, you have to be a little bit more careful [in that] than in casual conversation."



COMMEMORATED—The official state fossil, the woolly mammoth, left, and the University of Alaska Museum at Fairbanks have been commemorated through the creation of a numbered set of gold and silver coins. Local artist Jim Behlke designed the coins, and money raised from their sale goes to the museum's endowment fund. The museum is the only natural history museum in Alaska.

Photos courtesy of Fairbanks

Gold, silver coin set designates woolly mammoth state fossil

The Alaska Legislature made the woolly mammoth the official state fossil earlier this year, and that action is now being commemorated through the striking of a gold and silver coin set.

The idea to make the long-haired ancestor of the elephant the state fossil began with Ed McLaughlin of the University of Alaska-Fairbanks School of Mineral Engineering. McLaughlin presented the concept to state Sen. Bettye Fanrenkamp, D-Fairbanks, who then drafted the necessary legislation and saw it through to approval.

The coins feature the words "University of Alaska" and "Prehistoric Alaska's Heritage" and the mammoth on one side, and the university seal on the other. Five hundred gold and 4,000 silver coins have been struck and numbered.



DISPLAYS GOLD COINS—Fairbanks artist Jim Behlke displays gold coins he designed to commemorate the naming of the woolly mammoth as the official state fossil. Money raised through the sale of the numbered coins will go to the University of Alaska Museum's endowment fund.

Upon passage of the legislation, Jerry Cleworth of Alaska Rare Coin Investments approached the university with the idea of having a coin struck for the occasion and to highlight the work of the university's museum, the only natural history museum in the state.

Museum director Dr. Hans Bettsick obtained permission to use the Great Seal of the University of Alaska on the coins, and Fairbanks artist Jim Behlke was commissioned to draw the portrait of the woolly mammoth to be used on the coins. To this end, Behlke worked with museum personnel to make the drawing as accurate as possible.

The coins feature the words "University of Alaska Museum" and "Prehistoric Alaska's

Heritage," and the mammoth on one side, and the university seal on the other. Five hundred gold and 4,000 silver coins have been struck and numbered. They are now being sold at the museum's store, Alaska Rare Coin Investments, and at Fine Art Savings and Loan, 600

money from the sale is donated to the museum's endowment fund. The silver coins, which will be sold for \$10 each, will be sold at the museum's store. The gold coins will be sold for \$100 each. The coins will be sold at the museum's store, Alaska Rare Coin Investments, and at Fine Art Savings and Loan, 600

MEMORANDUM

State of Alaska ²⁻¹⁻⁷¹

TO: Don W. Collinsworth
Commissioner

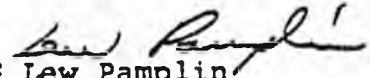
DATE: January 23, 1986 ^{Mike} _{DATE}

FILE NO.: P/M-DS

THRU: Dennis Kelso
Deputy Commissioner

TELEPHONE NO.: 267-2232

SUBJECT: Proposed Amendments
to the Duck Stamp Bill

FROM: 
Lew Pamplin
Director
Division of Game
Department of Fish and Game
Anchorage

It has come to our attention that there is some interest in the Legislature to limit the duck stamp art competition to resident artists only, perhaps through Senate Bill 353 (Zharoff, P. Fischer). We believe that such a restriction of competition could seriously jeopardize our ability to obtain the highest quality design and uphold print sales across the country. Our success with open competition in 1985 is undisputed and highlights the merits of our procedures all down the line. Alaska's 1985 duck stamp/print program was the most successful effort ever undertaken by any state.

Relevant considerations that make open competition highly preferred include:

1. Obtaining the best works of art from local and nationally known artists. Nationally-known artists will enhance sales substantially in the lower 48 states, especially in the first three years of the program when it is essential to get outside collectors interested in the Alaska series. However, an exceptional compelling piece by a local artist may draw nearly equal sales. Art quality is the cutting edge.
2. It can be easily demonstrated with exhibits that the quality of duck stamp art from states with residents-only competition is well below that of states with open competition or commissioned works. This is also reflected in historic sales and survival rates of the programs. Those states that have initiated art print sales since 1980 ensure the quality of designs through either open competition or by commissioning nationally known artists.
3. Track records of other states provide examples of disaster when open competition was restricted because of political pressure (Ohio, Montana, North Dakota). Ohio is a classic example, selling 9,000 prints in 1982 and falling to 1,500 the next year because of a

squabble over limiting art competition. Once sales drop on these programs, the editions are limited to the lowest number of prints sold and can not be increased later; sales nose-dive to several hundred.

4. Open competition is preferred by art retailers and most local artists. Most Alaskan artists contacted understood the objectives of the program and agreed that open competition would enhance sales. They also felt that it made the competition fair and more prestigious.
5. Current administrative procedures do not grant Alaska preference on professional services contracts and in several recent cases (local hire) Alaska preference has been overturned.

Our objective was to receive the highest quality array of designs while ensuring that Alaskan artists had ample, fair opportunity to participate. To that end, we: (1) published widespread legal notices and issued timely news releases (only in Alaska); (2) mailed out 300 requests for proposals (RFP) to all inquirers; (3) issued a list of prospective publishers for artists to contact; (4) issued a list of Alaskan artists for publishers to contact; and (5) specified in our RFP that publishers "may include no more than ten designs by artists who reside outside of Alaska, and should include at least two designs by Alaska artists" (no limit on Alaskan artists). All feedback indicates that our announcements were effective in reaching local artists, all artists that contacted bidders had their works entered, and that publishers were easy to work with and open to Alaska artists.

It is our belief that the duck stamp program is best served by the creativity and incentive promoted by free competition, both in art and business proposals, that drives sales and revenues to their greatest potential. We recommend that the department take a strong, active role in advising the Legislature and maintaining the critical operating flexibility of this highly successful program.

cc: Roland Shanks
Bev Reaume
Bob Hirman
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STATE OF ALASKA THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 26, 1987

SUBJECT: SSHB 10 - Limiting medallion design awards to
 Alaska residents

TO: Representative Mike Davis

FROM: Keith B. Levy ^{KBL}
 Legislative Counsel

The provisions of SSHB 10 would require the Department of Administration to arrange for the minting and sale of gold and silver Alaska commemorative medallions. You have asked whether it would be unconstitutional to provide that the contest for the design of the medallions must be limited to Alaska residents. This proposal is similar to the concept of an Alaska bidder preference, except that it is more than a preference since it would completely preclude nonresidents from participating in the design contest. Such a provision could present constitutional problems under the federal privileges and immunities clause and the state and federal equal protection clauses.

In Irby-Northface v. Commonwealth Electric Co., 664 P.2d 557 (Alaska 1983), the Alaska Supreme Court considered an issue related to the Alaska bidder preference, but declined to address the question of whether the preference is unconstitutional. However, two dissenting justices expressed the opinion that a resident bidder preference is unconstitutional because it discriminates economically between residents and nonresidents without sufficient justification. The two dissenting justices based their opinion on Lynden Transport, Inc., v. State, 532 P.2d 700 (Alaska 1975). In that case the court struck down a statutory amendment which gave resident motor freight carriers certain rights not granted to nonresident motor freight carriers:

A discrimination between residents and non-residents based solely on the object of assisting the one class over the other economically can not be upheld under

either the privileges and immunities or equal protection clauses. . . .

Benefiting economic interests of residents over non-residents is not a purpose which may constitutionally vindicate legislation. . . .

Lynden, at 710 - 711. Under Lynden it would appear that any bidder preference is subject to challenge. Your proposal goes far beyond a bidder preference and therefore would be open to attack under the holding in Lynden.

In January of this year, the Alaska Supreme Court struck down Alaska's local hire law as violating the privileges and immunities clause of article IV, sec. 2, of the United States Constitution. Robison v. Francis, 713 P.2d 259 (Alaska 1986). Citing the United States Supreme Court, the court said:

The primary purpose of this clause is to prevent states from enacting measures which discriminate against non-residents for reasons of economic protectionism.

Robison, at 263. The court ruled that employment in the construction industry is a fundamental right subject to protection under the privileges and immunities clause.

Robison, at 265. Since the state could not show that non-residents are a "peculiar source of the evil of unemployment," the court found there was insufficient justification for denying nonresidents the right of employment.

The Robison court did observe that the state is afforded greater deference in discriminating against nonresidents where it is acting as a "market participant" rather than a "market regulator." In manufacturing medallions, the state is certainly acting as a market participant. The argument could be made that the state has the right to limit the design of an Alaska commemorative medallion to Alaska residents, since the medallion is to be an artistic expression that is inherently Alaskan. Moreover, the state could argue, it is not limiting all state purchases to state residents, only those purchases that are specifically "Alaskan" in nature. On the other hand, the court could view the design award as just another procurement and it is clear, under the cases cited above, that the state cannot limit procurements entirely to Alaska residents.

Representative Davis
January 26, 1987
Page 3

Accordingly, there is at least a risk that your proposal could be struck down if enacted into law.

You should note that as currently written, SSHB 10 requires only that the design be of "an Alaska theme." Otherwise, discretion in selecting the design is left to the Department of Administration. There is nothing to prevent the department from advertising the contest only in Alaska, increasing the likelihood that a state resident would be awarded the contract, without taking the chance of running afoul of the constitution.

If I may be of further assistance, please advise.

KBL:mkr
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