

S B

209

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3/9/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3/14/89

3/9/89

Mr. President:

RESOURCES

Committee considered

SB 209

sale of organic and natural foods

and recommended:

- replace with CS SB 209 (Resources) same title
- attached amendment(s) and new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Arthur Stangorowski
Paul F. Z. [unclear]
[unclear]

J. Wilson no rec.

Arthur Stangorowski Do Pass
 Chairman signature and recommendation

Committee backup attached

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 209

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the sale of organic and natural
7 foods."

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

9 * Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to pro-
10 tect the consumer and producer of organic and natural foods, and to facili-
11 tate the production and marketing of these foods by adopting uniform stan-
12 dards relating to the use of the terms "organic," "natural," and their
13 derivatives.

14 * Sec. 2. AS 03 is amended by adding a new chapter to read:

15 CHAPTER 58. SALE OF ORGANIC AND NATURAL FOODS.

16 Sec. 03.58.010. PROHIBITION. (a) A person may not sell or
17 offer for sale food represented as organic or natural food if the
18 person knows or has reason to know that the food has been grown,
19 raised, or produced with the use of

20 (1) a fertilizer, except for manure and other natural
21 fertilizers;

22 (2) a manufactured pesticide, hormone, antibiotic, or
23 growth stimulant, except for *Bacillus thuringensis* and other natural
24 pesticides;

25 (3) a substance listed by the department under AS 03.58.050
26 that is similar to a substance that is restricted with regard to
27 organic food under (1) or (2) of this subsection.

28 (b) In (a) of this section, "with the use of" means

29 (1) applied to the food before a retail sale;

1 (2) fed to the animal producing the food;

2 (3) unless the substance applied is a pesticide, applied to
3 the soil or other growing medium within one year before seed planting
4 or transplanting, or, if the crops are perennial, before the appear-
5 ance of the flower bud; or

6 (4) in the case of pesticides, applied to the soil or other
7 growing medium within two years before seed planting or transplanting,
8 or, if the crops are perennial, before the appearance of the flower
9 bud.

10 Sec. 03.58.020. DISCLOSURE. (a) Except as provided in (b) of
11 this section, a person may not sell food represented as organic or
12 natural food unless the name and address of the producer of the food
13 are displayed with the food. If the food is not displayed at the
14 purchase site, a written statement with the name and address of the
15 producer must be given to the purchaser unless the name and address
16 are identified on a package containing the purchased food. This
17 subsection does not apply to a sale for consumption on the premises.

18 (b) Advertising for the mail order sale of food represented as
19 organic or natural food must include the name and address of the
20 producer of the food.

21 Sec. 03.58.030. SWORN STATEMENT OF COMPLIANCE. (a) A producer
22 may not sell to a vendor food represented as organic or natural food
23 unless before the sale the producer provides the vendor with a sworn
24 statement that the producer has grown, raised, or otherwise produced
25 the food in compliance with AS 03.58.010. If a producer sells the
26 food to the same vendor more than one time during a calendar year, one
27 statement for the calendar year is sufficient to comply with this
28 section.

29 (b) In this section, "vendor" means a person who sells food

1 represented as organic or natural food to another person for resale or
2 to a consumer.

3 Sec. 03.58.040. ~~RECORDS~~. A person who sells food represented as
4 organic or natural food shall ~~maintain the records~~ relating to this
5 chapter that the department reasonably requires and shall furnish them
6 to the department when requested by the department.

7 ~~Sec. 03.58.050. REGULATIONS~~. The department may adopt regula-
8 tions under AS 44.62 (Administrative Procedure Act) [that the depart-
9 ment determines are appropriate for the proper administration of this
10 chapter, including a regulation that lists and periodically updates
11 substances under AS 03.58.010(a). and implements 03.58.040.

12 Sec. 03.58.060. ORDERS. If the department determines that a
13 person is violating a provision of this chapter, or a regulation
14 adopted under this chapter, the department may require a person to
15 stop the violation and

16 Sec. 03.58.070. If a person is violating a provision of this chapter, a
17 regulation adopted under this chapter, or a regulation adopted under AS 03.
18 58.060, the person is

19 (1) liable for the violation if the person does not
20 exceed the total of \$10,000 for the violation; it does not
21 investigating and taking appropriate enforcement actions
22 for the violation;

23 (2) guilty if the person does not
24 Sec. 03.58.080. If a person is violating a provision of this chapter, a
25 regulation adopted under this chapter, or a regulation adopted under AS 03.
26 58.060, the person is

27 (1) "department" means the Department of Environmental
28 Conservation when the food is meat, fish, poultry, or processed, and
29 the Department of Natural Resources when the food is not meat, fish,
poultry, or processed;

(2) "food represented as organic or natural food" means

1 food, including fish, vegetables, fruit, meat, dairy products, and
2 beverages, that is marketed using the term "organic," "natural," or a
3 derivative of those terms in the labeling or advertising;

4 (3) "producer" means a person who grows, raises, or pro-
5 duces food.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to the sale of organic and natural foods.
 Sponsor: KERTULLA
 Requestor: _____

Agency Affected: Environmental Conservation
 BRU: Environmental Health
 Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The bill sponsor has stated that the role of the Department would be to enforce on a complaint only basis. With the understanding that compliance is expected to be 100% voluntary and that the Department will not routinely inspect or monitor, we are submitting a zero fiscal note.

Prepared by: Douglas C. Donegan *DCD*
 Division: Environmental Health

Phone: 465-2609
 Date: March 13, 1989

Approved by Commissioner: Dennis D. Kelso *adw/f*
 Agency: Environmental Conservation

Date: 3/13/89

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the sale of
organic foods
 Sponsor: Senator Kerttula
 Requestor: _____

Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached)

Prepared by: Senator Kerttula Phone: 465-3771
 Division: _____ Date: 3/10/89

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the sale of
organic foods
 Sponsor: Senator Kerttula
 Requestor: _____

Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached)

Prepared by: Senator Kerttula
 Division: _____

Phone: 465-3771
 Date: 3/10/89

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by preparer):

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

FISCAL NOTE ANALYSIS -- SB 209

This bill does not obligate any agency to perform new or additional services. The fiscal impact to be calculated pursuant to AS 24.08.035 is therefore "0".

The bill does give DEC and DNR discretion to adopt regulations they may believe desirable relating to identity of chemicals prohibited in organic farming; also to require reasonable records to be maintained by sellers of organic products. Because of the infancy of the organic food industry in this state, however, it would be premature to conclude that state regulatory intervention in this area is needed or desirable. It is more likely that once statutory standards are in effect, local industry will for the most part regulate itself, as it does in other states.

It should be noted that should an authorized agency elect to pursue an investigation of any alleged misrepresentation relating to organic food, both DEC and DNR have existing inspection staff who deal regularly with meat and vegetable produce. Some investigatory work could therefore be undertaken without additional appropriation.

Nonetheless, recent experience with similar legislation in the state of Washington-- where there is a large agriculture industry and significant trade in organic produce-- indicates that enforcement effort is rarely required. Thus, even in the event that commercial traffic in organic food increased substantially in Alaska, it is unlikely that there would be any need to fund an increased regulatory presence in the marketplace.

FISCAL NOTE

REQUEST:

Revision Date: 3/13/89
Title: Natural and Organic Food

Agency Affected: Natural Resources
BRU: Agricultural Management

Sponsor: Senator Kerttula
Requestor: Senate Resources

Components: Marketing Services and Inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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-
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

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

POSITIONS:


FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Because the bill does not require the department to develop or implement regulations, inspections, verification or enforcement related to natural and organic food sales, no funding is required. However, when development and implementation of regulations is desired, funding for staff and travel will be necessary.

Prepared by: Carol Wilson
Division: Commissioner's Office

Phone: 465-2400
Date: 3/13/89

Approved by Commissioner: 
Agency: Natural Resources

Date: 3/13/89

Distribution (by preparer):

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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 13, 1989

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

Subject: Senate Bill 209, relating to the sale of organic and natural foods.

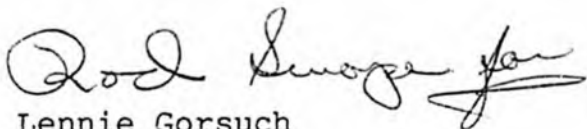
Position: The Department of Natural Resources supports this bill but will be unable to develop and implement organic and natural food product regulations and verification procedures until funding for staff and travel is provided.

Background: Under AS 03, the Department of Natural Resources is responsible for regulating the sale or use inside the state of plants, seeds, vegetables, shell eggs, fruits, and berries to protect the public interest and prevent product fraud, deception or misrepresentation. Currently, Division of Agriculture staff inspect farm products in storage or in retail stores to determine whether products match labeling statements related to grade, kind, etc. If a product violates our regulations, staff can direct the possessor concerning the appropriate disposition of the product.

This bill would allow (but not require) the department to develop regulations specific to organic and natural foods. It would also allow us to inspect products labeled organic or natural and enforce violations of our quality or labeling requirements. Unless additional funding for staff and travel is provided, however, the department would not be able to develop organic and natural food regulations and would not be able to determine or enforce rule violations.

Recommendation: Authorize a fee schedule (and use of program receipts to fund necessary staff and travel) for inspection and verification work by state inspectors.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lennie Gorsuch".

Lennie Gorsuch
Commissioner

cc: Bill Sponsors
Committee Members
Commissioner Dennis Kelso
Department of Environmental Conservation
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Frank Mielke, Director
Division of Agriculture

SECTIONAL ANALYSIS-- SB 209

This bill adds a new chapter to title 3 (Agriculture and Animals). It requires growers who market food products as "organic" or "natural" to avoid use of synthetic fertilizers, pesticides, growth hormones and related substances during critical periods. Sale of "organic" produce known to violate these standards is prohibited.

Sec.1: Purpose is to protect both consumers and producers.

Sec.2: Prohibition section lists prohibited substances and establishes critical periods during which they cannot be used if end product is to be marketed as organic.

Disclosure section requires that the producer of the organic food be identified on the package or display at the time of sale.

Sworn Statement section requires local producers to provide vendors with an annual sworn statement indicating that organic produce has been raised in compliance with this chapter.

Records, Regulations, Orders and Penalties sections authorize department to supplement list of prohibited substances and establish record keeping requirements if needed; provides authority to stop sales occurring in violation of this chapter; and provides for a civil fine and recovery of costs by the department in addition to conventional criminal sanctions in the event of a violation.

Definition section designates Department of Natural Resources as authority over raw produce and Department of Environmental Conservation as authority over meat and processed foods (conforms to other chapters in title 3).

FISCAL NOTE ANALYSIS — SB 209

This bill does not obligate any agency to perform new or additional services. The fiscal impact to be calculated pursuant to AS 24.08.035 is therefore "0".

The bill does give DEC and DNR discretion to adopt regulations they may believe desirable relating to identity of chemicals prohibited in organic farming; also to require reasonable records to be maintained by sellers of organic products. Because of the infancy of the organic food industry in this state, however, it would be premature to conclude that state regulatory intervention in this area is needed or desirable. It is more likely that once statutory standards are in effect, local industry will for the most part regulate itself, as it does in other states.

It should be noted that should an authorized agency elect to pursue an investigation of any alleged misrepresentation relating to organic food, both DEC and DNR have existing inspection staff who deal regularly with meat and vegetable produce. Some investigatory work could therefore be undertaken without additional appropriation.

Nonetheless, recent experience with similar legislation in the state of Washington— where there is a large agriculture industry and significant trade in organic produce— indicates that enforcement effort is rarely required. Thus, even in the event that commercial traffic in organic food increased substantially in Alaska, it is unlikely that there would be any need to fund an increased regulatory presence in the marketplace.



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

Statement of Senator Jay Kerttula:
SB 209-- Organic and Natural Foods
March 10, 1989

I have introduced SB 209 to remedy a specific failing in Alaskan statutes dealing with food products: nowhere in our existing law is there any definition or standard which permits one to be certain what is meant when one purchases "organic" food.

What this means is that vegetables and other food products can now be advertised and sold as "organic," "naturally grown," etc. without any guarantee as to what fertilizers and pesticides may have been used or not used in their production and processing.

There is a growing body of medical evidence to suggest that at least in part, we are what we eat. But what are we eating? We tend to think of organic produce as free of synthetic pesticides and fertilizers. SB 209 simply makes sure that this is in fact the case. It establishes uniform standards for organically produced foods, patterned after those used in Washington and some other states, and supported by local scientific data (see attached).

The bill is a simple protective measure that will benefit both consumers and producers who are concerned about the chemicals-- particularly pesticides, hormones and antibiotics-- that we are unknowingly ingesting in our food supply. I believe there are many who are concerned about this contamination, and who would prefer to see that Alaskan consumers have a choice in their purchases. I think this bill will help that choice become more of a reality by making sure that growers, vendors and customers are speaking the same language when they deal in organic produce, and that when an Alaskan says "organic" he is representing that a product has never been exposed to chemical applications.

The interest in organic foods and recognition of their importance to human health is increasing. The recent, much publicized concern about the quantities of pesticides contained in apples and other fruits, and the hazard they may be posing for our children, is only the latest manifestation of a national trend. And on the international scene, it is no secret that Japanese and European importers are reluctant to purchase many of our beef and pork products because of the quantities of antibiotics and hormones injected into American cattle.

We are unusually fortunate in that many of the fresh vegetables, potatoes and carrots that are produced in Alaska can be raised without application of the pesticides that are so heavily relied upon in other

climates. It may also be practical to raise beef and some other kinds of livestock for an organic market by utilizing a combination of local grazing lands and unadulterated locally produced grains. We simply do not have the kind of weed and insect pest problems here that plague farmers in other states, and some of our growers may find that organic production will open a market niche in which they can compete quite successfully with outside growers.

Of course one of the ultimate beneficiaries of any growth in this sector will be the Alaskan consumer.

SECTIONAL ANALYSIS-- SB 209

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Definition section designates Department of Natural Resources as authority over raw produce and Department of Environmental Conservation as authority over meat and processed foods (conforms to other chapters in title 3).

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 13, 1989

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
P.O. Box V
Juneau, AK 99811

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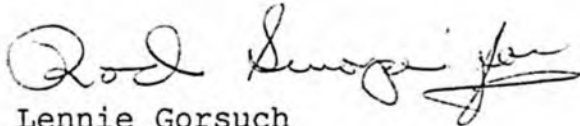
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Background: Under AS 03, the Department of Natural Resources is responsible for regulating the sale or use inside the state of plants, seeds, vegetables, shell eggs, fruits, and berries to protect the public interest and prevent product fraud, deception or misrepresentation. Currently, Division of Agriculture staff inspect farm products in storage or in retail stores to determine whether products match labeling statements related to grade, kind, etc. If a product violates our regulations, staff can direct the possessor concerning the appropriate disposition of the product.

This bill would allow (but not require) the department to develop regulations specific to organic and natural foods. It would also allow us to inspect products labeled organic or natural and enforce violations of our quality or labeling requirements. Unless additional funding for staff and travel is provided, however, the department would not be able to develop organic and natural food regulations and would not be able to determine or enforce rule violations.

Recommendation: Authorize a fee schedule (and use of program receipts to fund necessary staff and travel) for inspection and verification work by state inspectors.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Bill Sponsors
Committee Members
Commissioner Dennis Kelso
Department of Environmental Conservation
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Frank Mielke, Director
Division of Agriculture

FISCAL NOTE

REQUEST:

Revision Date: 3/13/89
Title: Natural and Organic Food

Agency Affected: Natural Resources
BRU: Agricultural Management

Sponsor: Senator Kerttula
Requestor: Senate Resources

Components: Marketing Services and
Inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

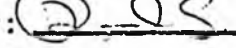
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

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Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioner's Office Date: 3/13/89

Approved by Commissioner:  Date: 3/13/89
Agency: Natural Resources

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the sale of
organic foods
 Sponsor: Senator Kerttula
 Requestor: _____

Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached)

Senator Kerttula

Prepared by: _____ Phone: 465-3771
 Division: _____ Date: 3/10/89

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by preparer):

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

FISCAL NOTE ANALYSIS -- SB 209

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UNIVERSITY OF ALASKA FAIRBANKS
School of Agriculture and Land Resources Management

Agricultural & Forestry Experiment Station

Palmer Research Center
533 E. Fireweed
Palmer, Alaska 99645
(907) 745-3257

MEMORANDUM

DATE: March 3, 1989
TO: Senator Jalmar Kerttula
FROM: Allen Mitchell, Associate Director
(Ph. D. Soils and Environmental Sciences) 
SUBJECT: Criteria for Organically Grown Produce

This memorandum is a follow-up to conversations that I have had with Mark Weaver regarding certain criteria for organically grown produce. The criteria discussed were related to the use of synthetic fertilizers and pesticides.

Fertilizers

Of the two categories of synthetic chemicals, fertilizers pose the least hazard in terms of human consumption of crops grown on ground to which it has been applied. In fact, of the three primary plant nutrients, nitrogen (N), phosphorus (P), and potassium (K), synthetic forms are chemically indistinguishable from organically derived forms in the soil. Also, of these three, only nitrogen poses a potential problem to human health. For example, nitrate- and nitrite-nitrogen might conceivably accumulate in plants to levels that could cause human health problems. This is a rare occurrence. Furthermore, this type of problem could just as easily occur with nitrogen from organic sources. Another concern that some have with synthetic fertilizers is from chemical impurities they may contain. One example often cited is certain phosphorus fertilizers have been found to contain potentially toxic cadmium. However, the source of this contamination is the naturally occurring rock phosphate from which it was manufactured. Organic growers do use rock phosphate as a source of phosphorus fertilizer.

For some of the above mentioned reasons as well as others, enforcement of regulations on fertilizer sources (organic vs synthetic) would be most difficult. Once incorporated in the soil, it is essentially impossible to distinguish source. It would likewise be impossible to determine how long such nutrients have been in the soil.

With this brief description of the problems, I doubt that requiring a long synthetic fertilizer-free period would be either practical or enforceable. Therefore, I would suggest that you consider a requirement that the ground to be used for organically grown produce be free of synthetic fertilizers for a period of one year.

Pesticides

Synthetic pesticides are a completely different situation. While pesticides vary considerably in their toxicity, a great number of them are potentially hazardous. Our information is incomplete, in many cases, with regard to the absolute safety of many of these products. For those individuals who want to pursue a "chemical" free diet, this is where the regulatory emphasis should be placed in my opinion. Unlike fertilizers, pesticide residues in the soil and in produce can be differentiated from natural occurring compounds. Thus enforcement of regulatory policies is possible. Additionally, soil applied pesticides tend to carry over for longer periods in some environments than in others. However, to further complicate the situation, pesticides change chemical form when they enter the soil and are acted on by soil microbes. Fortunately, the new forms are usually less toxic and eventually are reduced to harmless carbon, hydrogen, and oxygen. Again, the time required to render them harmless varies with the pesticide and soil temperatures.

There's no question in my mind that, for regulatory policy, the residence time required in the soil should be greater for pesticides to insure an appropriate degradation time. For example, the herbicide Lorox (Linuron) degrades to harmless byproducts in four months in temperate climates while we have been able to measure residue in soils 12 months after application. Linuron is a very safe material from a human health standpoint and concentrations remaining after a year are harmless, but it does illustrate that pesticides can carry over for longer periods depending on environmental conditions at specific locations.

Based on the above arguments, I suggest that the law require that soil used to grow organic produce be free of synthetic pesticide application for a period of two years prior to planting a crop.

If you or Mark have any further questions, please don't hesitate to contact me. The whole question of organically grown produce is a difficult one, but it does have to be addressed. Fortunately for Alaska, we currently use substantially less pesticides than most other producing areas and we have an excellent synthetic chemical-free land base available to those who may want to enter the organic produce market.

Watch Those Vegetables, Ma

Pesticide-laden produce may endanger your tots

For many parents, dinnertime is too often a series of exhausting skirmishes with small children who refuse to finish their spinach or salad. Invariably, the parental argument is: "Eat it. It's good for you." This week a new study charges that all too often what is on the plate or in the glass may not be good for you at all. In fact, reports the National Resources Defense Council (NRDC), an environmental group based in New York City, farm produce sold in U.S. supermarkets and green-groceries may contain so much pesticide that it poses a serious hazard to the health of the nation's 22 million preschoolers.

The study, titled "Intolerable Risk: Pesticides in Our Children's Food," examines recent federal data on the eating habits of infants and youngsters through age five, along with figures on the amount of pesticides in 27 different crops. The information is then used to assess the long-term risk of cancer and neurological problems in these children. Eight of the pesticides are believed to be human carcinogens; all are used on fruits and vegetables frequently consumed by children, including peas, carrots, fruit juices and applesauce. Among the key findings:

- ▶ Youngsters receive four times as much exposure on average as adults to the eight carcinogenic pesticides evaluated. As many as 6,200 of today's preschoolers, the study predicts, may develop cancer sometime in their life as a result of pesticide-contaminated produce they consume as children.

- ▶ Daminozide (trade name: Alar), a chemical that is used chiefly on red apples and that penetrates the fruit's skin, is the greatest cancer hazard. The NRDC predicts that daminozide use may cause one case of cancer for every 4,200 preschoolers. Though the percentage of children affected—0.024%—is minute, the risk is 240 times the standard considered acceptable by the Environmental Protection Agency—one case of cancer per million.

- ▶ Exposure to four carcinogenic fungicides, including Captan and Mancozeb, may lead to one case of cancer per 33,000 to 160,000 children, two to seven times the allowable risk.

- ▶ At least 3 million youngsters are exposed to unsafe levels of organophosphate insecticides that may cause neurological damage. Among the crops treated by these chemicals are tomatoes, green beans and cucumbers.

The NRDC report goes on to charge that the Government is failing to protect youngsters adequately from such dangers. It points out that current legal limits for pesti-

cide residues, set by the EPA, are based on the consumption patterns and physiology of adults. Children eat a great deal more food for their body weight than adults. They also consume more fruit, which makes up an estimated 34% of preschoolers' diets, in contrast to 20% for adults. Youngsters eat six times as many grapes, seven times as many apples and seven times as much applesauce as their parents. The typical preschooler drinks 18 times as much apple juice as the average woman. Thus the child's ingestion of pesticides is likely to be greater.

Children may also be more vulnerable than adults to pesticides because their

estimates are conservative. They do not, for instance, take into account pesticides in milk or water.

Many agree with the NRDC's basic contention that pesticide-residue limits need to be tightened. Says Dr. Richard Jackson, a member of a panel of the National Academy of Sciences, which is examining this issue at the EPA's request: "The food tolerances are set on good agricultural practices. The Government does not adequately address the impact of pesticides on children." The baby-food companies have already got the message. Gerber and Beech-Nut, for example, do not use Alar-treated apples in their products, and pesticide residues on the crops they accept for processing into baby foods are much lower than federal limits.

Under mounting pressure, the EPA



Beverage of choice: class of thirsty preschoolers takes an apple-juice break in New York City

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bodies are still maturing. Cells are rapidly dividing, and organs, like the liver, may not be as efficient in removing toxic chemicals. "We must revise all existing tolerances and set the levels for children," says Janet Hathaway, the NRDC's chief lobbyist in Washington. "We should be able to eat food without worrying that we are sowing the seeds of cancer."

Not everyone believes that pesticides are as serious a threat as the NRDC claims. Professor Bruce Ames, head of the biochemistry department at the University of California, Berkeley, labels the NRDC's alarms "wild." Says he: "They are piling one worst-case scenario on top of another." Moreover, Ames points out, plants produce their own poisons to ward off pests. "The proportion of positive cancer tests is about as high for natural pesticides as for synthetic pesticides, and we are eating 10,000 times more of the natural ones," he notes. The NRDC insists that its risk es-

has begun to take action. Last month the agency announced its intention to ban the use of daminozide by next winter and said that it was barring use of the fungicide captan on 42 crops. Some find the Government's response too slow. California's Democratic Representative Henry Waxman and Massachusetts' Democratic Senator Edward Kennedy plan to introduce federal legislation that would force the EPA to act quickly to remove dangerous pesticides from the food supply.

In the meantime, what is a worried parent to do? Jackson counsels caution but still recommends that children get a steady diet of fresh fruits and vegetables, organically grown if possible. And he warns people not to let their fears push them into food foolishness. "I wouldn't want parents to go back to Big Macs," he says, "because they're concerned about the broccoli."

—By Anastasia Toularis.
Reported by Cristina Garcia/Los Angeles

2/28/89

THE NATION'S NEWSPAPER

USA TODAY

NO. 1 IN THE USA...5.3 MILLION READERS EVERY DAY

COVER STORY

Fear: Are we poisoning our children?

Pesticides have parents in uproar: 'But what are you going to do?'
Face-off, 10A

By Tim Friend
and Nanci Hellmich
USA TODAY

Katie Hazlett guzzles apple juice. The 17-month-old drinks at least three glasses a day.

"Whenever she's playing hard and just wants a drink, she says, 'Juice, juice,' and we give her apple juice," says mom Wendy Hazlett, an industrial engineer in Rochester,

N.Y. "We've always trusted apple juice." Until now.

Like millions of other USA parents, Wendy Hazlett and her husband Dave are now concerned that apples and other so-called healthy foods aren't safe for their children.

A report from the Natural Resources Defense Council, released at a news conference Monday, adds to growing concerns that our children are being poisoned by pesticides in the food they eat. Portions of the report were revealed

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over the weekend, sending many parents to their refrigerators in alarm to pour out apple juice and toss questionable produce.

The new report charges that federal guidelines for acceptable pesticide limits don't account for potentially higher health risks in young children, who eat more fruits and vegetables for their size than adults.

Of greatest concern: Daminozide, commonly known as Alar — a carcinogenic agent used to enhance the growth and appearance of red apples.

The latest report suggests exposure to Alar and seven other pesticides found on fruits and vegetables will eventually cause 5,500 to 6,200 cases of cancer in kids now under age 6.

Alar alone is estimated to cause cancer in 1 of every 4,200 preschoolers exposed, says Janet Hathaway of the Defense Council, a Washington-based public interest group. The Environmental Protection Agency estimates Alar's cancer risk is much lower — 1 in 100,000.

"We believe our assessment is right, but because of the concerns we're taking a hard look at their calculations," says Bill Jordan, policy chief for EPA's pesticide program. "If they're right, we'll move rapidly to remove Alar from the market."

Tips on fruit

Five favorite fruits of preschool children, and how to make them safer:

► **Apples.** Washing or cooking may reduce some residues, but Alar can't be washed out.

► **Oranges.** Wash and peel. Pesticides remain primarily on the peel.

► **Tomatoes.** Scrub, don't just rinse.

► **Grapes.** Buy locally grown, in season to reduce likelihood they've been treated with fungicide.

► **Bananas.** Wash before peeling, though most commonly used pesticide can't be peeled away.

Source: Natural Resources Defense Council (Percentages are based on USDA's 1985 Nationwide Food Consumption Survey)

And, he adds: "We do take into account the exposures of children in our regulatory decisions. In fact, we did that specifically with Alar and this why we recommend to apple growers not to use the pesticide."

Another study — requested a year ago by EPA — is under way, examining the health risk to children from the same pesticides studied by the Defense Council. At issue: How do kids differ from adults in their cancer risk from these chemicals?

"Children eat more fruits and drink more fruit juices than adults," says Dr. Philip Landrigan, who heads the ongoing National Academy of Sciences study. "Also, children are very different in the way their bodies handle toxins. In some instances, they may be at greater risk, and in others there is less risk."

But the results of Landrigan's study won't be out until

1990. So what are worried parents to do until then?

Trish Ward, a mother of three in Greece, N.Y., explains the dilemma many parents face: "It's frustrating when you think you're making your family eat fruits and vegetables and you find out that even they are tainted."

Michele Heyen of Crystal Lake, Ill., who has a daughter, Lauren, 3, agrees: "Everything I read about is bad for kids. It's depressing and extremely frustrating. But what are you going to do? Give them Kool-Aid filled with sugar?"

Commercial baby food is probably safe.

Both Gerber and Beech-Nut have high standards for pesticide testing, officials say. Neither accepts Alar-treated apples.

Apple juice is of particular concern because there's no way to know if the fruit is free of Alar. The pesticide can't be removed in processing — in fact, the concentration increases.

Consumer Reports is scheduled to release a major review of apple juice products in mid-March. It tested 32 samples and found nine brands had no detectable Alar, but five had high content. The majority of manufacturers have reduced Alar levels in their products, but "some have been less successful than others," an initial report says.

Next Tuesday, actress Meryl Streep, mother of three, will be named co-chairman of a new group, Mothers and Others for Pesticide Limits. The group, organized by NRDC, will offer a 900 phone number for parents to call for information.

In the meantime, if you're really worried about apples, eat only Granny Smith and Golden Delicious types, says EPA's Jordan, and eliminate apple juice altogether.

Hathaway also offers these tips for parents:

► **Grow your own fruits and vegetables.** You can control what goes on them.

► **Buy foods grown in the USA.** Imported foods are twice as likely to violate even the EPA's limits for pesticide residues.

► **Beware of perfect looking produce.** "The kinds of pesticides that are used to make a perfect looking product are chemicals that are likely to injure your health."

► **Talk to your supermarket manager.** Ask where the fruits and vegetables are coming from. Show your concern.

► **Wash all fresh produce.** "Don't let your children suck on or play with fruits and vegetables that aren't washed."

► **Buy fruits that are in season.** Because they aren't being stored for long, they're less likely to have been treated with fungicides and other chemicals to preserve their appearance.

► **Peel fruits that have thick skin.** Many residues are removed this way.

► **Talk to local growers.** Ask them what pesticides they're using, and urge them to cut back. Then buy their produce.

A REVIEW OF SENATE BILL 209 BY
NANSEN AND DANA OLSON. WE ARE
GOING INTO ORGANIC APPLE AND
SMALL FRUIT PRODUCTION, AND THEREFORE
WANT (NEED) A QUALITY ORGANIC
FOODS LAW. A QUALITY LAW IS REQUIRED
IN ORDER TO ALLOW EXPORT OF ALASKAN
ORGANIC FOODS TO OTHER STATES AND/OR
COUNTRIES. IT IS ALSO REQUIRED IN ORDER
TO MAINTAIN "LOCAL" CONSUMER CONFIDENCE.
THE "ORGANIC FOODS PRODUCTION ASSOCIATION
OF NORTH AMERICA (OFPA)" IS FEDERAL
EXPRESSING A PACKET OF INFORMATION ON
ORGANIC STANDARDS TO SENATOR BETTYE
FAHRENKAMP. THIS PACKET WILL PROVIDE INFORMATION
ON ORGANIC CERTIFICATION AND OTHER LEGAL
ASPECTS AND MINIMUM STANDARDS REQUIRED
TO ALLOW CONSUMER CONFIDENCE AND EXPORT
OF ALASKAN PRODUCE.

FOR SEC. 03.58.010 (B)(2) FED TO THE ANIMAL PRODUCING
THE FOOD — THE FOOD CHAIN MUST BE
RECOGNIZED. ANIMAL FEEDS INCLUDING GRAINS
AND HAYS WHICH CONTAIN SUBSTANCES LISTED
IN SEC. 03.58.010 (A)(2) CAN NOT BE FED TO ANIMALS
PRODUCING ORGANIC FOOD. IN OTHER WORDS,
THE ANIMAL FEED MUST ALSO COMPLY WITH
THE STATE ORGANIC CERTIFICATION PROGRAM.

SEC. 03-55.010 NEEDS TO INCLUDE A CERTIFICATION PROGRAM TO PROVIDE CONSUMER CONFIDENCE, PROTECT HONEST PRODUCERS AND ALLOW FOR EXPORT.

SEC. 03-55.010(A) SHOULD INCLUDE ... ~~IT HAS BEEN GROWN,~~
RAISED, PRODUCED OR TREATED WITH THE USE OF ...

SEC. 03-55.010(A)(2) SHOULD INCLUDE ... HERBICIDES,
RIPENING AGENTS, RET RETARDANTS AND FRUIT POLISHES
WAXES - -

SEC. 03-55.010(B)(1) SHOULD INCLUDE ... APPLIED TO THE
SEED, FOOD PRODUCING PLANT, FOOD, SOIL, PLANT
GROWTH MEDIA OR SEED STARTING MEDIA ...

SEC. 03-55.010(B)(2) SHOULD BE CHANGED TO
"SEC. 03-55.010(B)(1)(c) UNDER "APPLIED TO..."
AS A SUBSECTION.

... UNLESS THE SUBSTANCE APPLIED IS
APPLIED TO THE SOIL OR OTHER GROWING MEDIUM,
MORE THAN FOUR YEARS PRIOR TO SEED PLANTING
OR TRANSPLANTING, OR, IF THE CROPS ARE PERENNIAL,
MORE THAN FOUR YEARS PRIOR TO THE APPEARANCE
OF THE CROPPING YEAR FLOWER BUD.

SEC. 03-55.010(B)(4) DELETE - ITS COVERED IN THE
NEW SUBSECTION 03-55.010(B)(1)(c)

SEC. 03-55.020 AN ORGANIC CERTIFICATE ALSO
NEEDS TO BE REQUIRED W/A COPY BEING
DISPLAYED AT THE RETAIL SALES SITE.

SEC. 03.58.030 SWORN STATEMENTS HAVE NOT WORKED IN OTHER STATES, WHICH ARE NOW REQUIRING CERTIFICATION PROGRAMS WHICH INCLUDE LAB TESTS OF GROWTH MEDIA, PLANT TISSUE AND ANIMAL TISSUE. THIS SECTION SHOULD BE REPLACED WITH A CERTIFICATION PROGRAM WHICH INCLUDES LAB TESTS. CERTIFICATION PROGRAM ADMINISTERED BY STATE DEPT. OF AGRICULTURE. W/COSTS AND LAB FEE BORN BY FARMER. ONE ANNUAL CERTIFICATION PER CROP SHOULD BE REQUIRED.

SEC. 03.58.040 RECORDS SHOULD BE REQUIRED TO BE KEPT FOR A MINIMUM OF TWO YEARS AFTER THE "SALE" BY PRODUCERS. THESE RECORDS SHOULD INCLUDE DATA FOR FOUR YEARS PRIOR TO THE "SALE."

SEC. 03.58.070 (1) A ONE THOUSAND DOLLAR FINE WOULD ONLY TEND TO ENCOURAGE VIOLATIONS AS THE PROFITS TO BE GAINED WOULD BE FAR FAR GREATER THAN ONE THOUSAND DOLLARS PER AVERAGE WHOLESALE CONTRACT. RAISE THE MAXIMUM FINE TO AT LEAST TEN THOUSAND DOLLARS.

NANSEN AND DANA OLSON

HC 30 BOX 5438

WASILLA, AK 99687

907-373-4612



UNIVERSITY OF ALASKA FAIRBANKS
School of Agriculture and Land Resources Management

Agricultural & Forestry Experiment Station
Palmer Research Center
533 E. Fireweed
Palmer, Alaska 99645
(907) 745-3257

MEMORANDUM

DATE: March 3, 1989
TO: Senator Jalmar Kerttula
FROM: Allen Mitchell, Associate Director
(Ph. D. Soils and Environmental Sciences) *AM*
SUBJECT: Criteria for Organically Grown Produce

This memorandum is a follow-up to conversations that I have had with Mark Weaver regarding certain criteria for organically grown produce. The criteria discussed were related to the use of synthetic fertilizers and pesticides.

Fertilizers

Of the two categories of synthetic chemicals, fertilizers pose the least hazard in terms of human consumption of crops grown on ground to which it has been applied. In fact, of the three primary plant nutrients, nitrogen (N), phosphorus (P), and potassium (K), synthetic forms are chemically indistinguishable from organically derived forms in the soil. Also, of these three, only nitrogen poses a potential problem to human health. For example, nitrate- and nitrite-nitrogen might conceivably accumulate in plants to levels that could cause human health problems. This is a rare occurrence. Furthermore, this type of problem could just as easily occur with nitrogen from organic sources. Another concern that some have with synthetic fertilizers is from chemical impurities they may contain. One example often cited is certain phosphorus fertilizers have been found to contain potentially toxic cadmium. However, the source of this contamination is the naturally occurring rock phosphate from which it was manufactured. Organic growers do use rock phosphate as a source of phosphorus fertilizer.

For some of the above mentioned reasons as well as others, enforcement of regulations on fertilizer sources (organic vs synthetic) would be most difficult. Once incorporated in the soil, it is essentially impossible to distinguish source. It would likewise be impossible to determine how long such nutrients have been in the soil.

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There's no question in my mind that, for regulatory policy, the residence time required in the soil should be greater for pesticides to insure an appropriate degradation time. For example, the herbicide Lorox (linuron) degrades to harmless byproducts in four months in temperate climates while we have been able to measure residue in soils 12 months after application. Linuron is a very safe material from a human health standpoint and concentrations remaining after a year are harmless, but it does illustrate that pesticides can carry over for longer periods depending on environmental conditions at specific locations.

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Five favorite fruits of preschool children, and how to make them safer:

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Source: Natural Resources Defense Council (Percentages are based on USDA's 1985 Nationwide Food Consumption Survey)

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Both Gerber and Beech-Nut have high standards for pesticide testing, officials say. Neither accepts Alar-treated apples.

Apple juice is of particular concern because there's no way to know if the fruit is free of Alar. The pesticide can't be removed in processing — in fact, the concentration increases.

Consumer Reports is scheduled to release a major review of apple juice products in mid-March. It tested 32 samples and found nine brands had no detectable Alar, but five had high content. The majority of manufacturers have reduced Alar levels in their products, but "some have been less successful than others," an initial report says.

Next Tuesday, actress Meryl Streep, mother of three, will be named co-chairman of a new group, Mothers and Others for Pesticide Limits. The group, organized by NRDC, will offer a 900 phone number for parents to call for information.

In the meantime, if you're really worried about apples, eat only Granny Smith and Golden Delicious types, says EPA's Jordan, and eliminate apple juice altogether.

Hathaway also offers these tips for parents:

► **Grow your own fruits and vegetables.** You can control what goes on them.

► **Buy foods grown in the USA.** Imported foods are twice as likely to violate even the EPA's limits for pesticide residues.

► **Beware of perfect looking produce.** "The kinds of pesticides that are used to make a perfect looking product are chemicals that are likely to injure your health."

► **Talk to your supermarket manager.** Ask where the fruits and vegetables are coming from. Show your concern.

► **Wash all fresh produce.** "Don't let your children suck on or play with fruits and vegetables that aren't washed."

► **Buy fruits that are in season.** Because they aren't being stored for long, they're less likely to have been treated with fungicides and other chemicals to preserve their appearance.

► **Peel fruits that have thick skin.** Many residues are removed this way.

► **Talk to local growers.** Ask them what pesticides they're using, and urge them to cut back. Then buy their produce.



Official Business

Alaska State Legislature

Senate

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MARCH 9, 1989

TO: Senator Bettye Fahrenkamp
Chair, Senate Resources Committee

FROM: Senator Jay Kerttula

SUBJECT: SENATE BILL 209, relating to the sale of
organic and natural foods.

This memo is to confirm my verbal request which I made through my staff, Mark Weaver.

I would appreciate your scheduling Senate Bill 209 for a committee hearing as soon as possible. This legislation is straightforward; it provides minimum standards which must be met before a food can be sold as organic. There is no fiscal impact.

Thank you for your consideration of this request.