

SB

109

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF
SFC MAR 26 1997

DATE: 2/27/97

FURTHER:

DATE TURNED
IN TO OFFICE: 4-2-97

Finance Committee considered SENATE BILL NO. 109

AGRICULTURAL LAND

and recommends:

- be replaced with CS SB 109 (FIN)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roll E. Allen</i>	✓	<i>Donnell Duley</i>	✓		
<i>John Ferguson</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
(SB) LAW	3/19		138.5
(SB) DNR - Support Svcs.	3/21		25.0
(SB) DNR - AGRICULTURE	3/21		28.5
(SB) DNR - LAND	3/21		131.3
FORTHCOMING FN'S for CSSB 109 (FW):			

- LAW
- DNR

fiscal note

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB109

REPRODUCTION OF
 MAR 26 1997

Revision Date: _____ Dept Affected: Natural Resources
 Title: "An Act relating to Land Used for Agricultural BRU: Management and Administration
 Purposes and to State Land Classified for Agricultural Purposes....." Component: Information Resource Management
 Sponsor: Green, Pearce
 Requestor: (S)FIN Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	25.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.0	10.0	10.0	10.0	10.0	10.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	25.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	25.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY97) cost: \$ None

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

SB 109 proposes to convey fee title to state land classified as agricultural land, subject to a covenant limiting the use to agricultural purposes. Former disposals of agricultural land are to be converted to fee title with the restrictive covenant. The current owners of agricultural rights only land may apply for fee title if they convey their interest in the land back to the state. These conveyances will require new transactions in the Land Administration System, and notation of the deeds back to the state and the new fee title patents to the Land Status GIS system (status plats).

Prepared by: Carol Carroll, Director *Carol Carroll* Phone: 465-4730
 Division: Support Services Date: 20-Mar-97
 Approved by Commissioner: *Carol Carroll Sr* Date: 3/21/97
 Agency: Natural Resources

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB109(FIN)

Revision Date: 3-Apr-97 Dept Affected: Natural Resources
 Title: "An Act relating to Land Used for Agricultural BRU: Management and Administration
 Purposes and to State Land Classified for Agricultural Purposes....." Component: Information Resource Management
 Sponsor: Green, Pearce
 Requestor: (S) RLS Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	25.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.0	10.0	10.0	10.0	10.0	10.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	25.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	25.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY97) cost: \$ None

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS:

(Attach a separate page if necessary)

SB 109 proposes to convey fee title to state land classified as agricultural land, subject to a covenant limiting the use to agricultural purposes. Former disposals of agricultural land are to be converted to fee title with the restrictive covenant. The current owners of agricultural rights only land may apply for fee title if they convey their interest in the land back to the state. These conveyances will require new transactions in the Land Administration System, and notation of the deeds back to the state and the new fee title patents to the Land Status GIS system (status plats).

Prepared by: Carol Carroll, Director *Carol Carroll* Phone: 465-4730
 Division: Support Services Date: 3-Apr-97
 Approved by Commissioner: *Wesley* Date: 4-3-97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB109(FIN)

1997 LEGISLATIVE SESSION

Revision Date: 3-Apr-97 Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural BRU: Resource Development
purposes and to s classified for agricultural purposes.... Component: Land Development
 Sponsor: Senator Green
 Requestor: (S) RLS Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	75.0	148.6	21.1	26.4	31.7	37.0
TRAVEL	0.7	0.8	0.9	1.0	1.1	1.2
CONTRACTUAL	9.5	6.0	6.6	7.2	8.0	8.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	85.2	155.4	28.6	34.6	40.8	47.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1005)	90.0	108.0	126.0	144.0	162.0	180.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	85.2	155.4	28.6	34.6	40.8	47.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	85.2	155.4	28.6	34.6	40.8	47.0

Estimate of any current year (FY97) cost: \$ None

POSITIONS

FULL-TIME	1.6	3.4	0.4	0.5	0.6	0.7
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Conversion of existing patents: Assumes 230 existing agricultural patents are eligible and that conversion can be completed in first two years. Process begins by setting up data base, then giving public notice of conversion opportunity by mailout to patentee's last known address and by ads in five Alaska newspapers. This first-year phase would require 4 person-months' work by an NRO II and an Admin Clerk II, total \$14.4, plus contractual costs of \$4.1 for certified mail and publication twice in five newspapers. Next phase is accepting deeds from patentees and adjudicating title conflicts: 12 person-months in the first year (6 mos. each for NRO II and Admin Clerk II), \$43.2, plus 24 person-months in the second year (12 mos. each for NRO II and Admin Clerk II), \$86.4. Final phase, in second year, is issuing patent if title conflicts resolved: 12 person-months (6 each of NRO II and Admin Clerk II), \$43.2. Cost would be lower if Secs. 12-13 are amended as recommended in DNR's letter to Sen. Green dated March 19, 1997. **Total for conversion: \$61.7 FY98, \$129.6 FY99, grand total \$191.3.**

Prepared by: Jane Angvik, Director Phone: 269-8503
 Division: Land Date: 3-Apr-97
 Approved by Commissioner: [Signature] Date: 4-3-97
 Agency: Natural Resources

ANALYSIS SB109 (cont.)

Monitoring/enforcement of agricultural covenant: Analysis assumes that municipalities and private parties will aid in enforcing the covenant (enforcement is necessary so that the courts do not deem the covenant "waived or abandoned"), and that the state's share of the workload can drop to one-third of the total with parcels being monitored every three years rather than annually. Monitoring would be done mostly by surface transportation, with 10% by air charter for landowners whose improvements cannot be seen by road, at an average of one per day (including time needed for follow-up on apparent violations: document on film, research current owner at Recorder's Office, correspond with landowner and the local Soil and Water Conservation Subdistrict, refer unresolved violations to Dept. of Law for prosecution, and provide litigation support). Enforcement officer would be an NRO II. 75 farms out of a total of 230 existing patents would be monitored first year, with numbers increasing by 10% every year as new patents are issued (183 parcels are currently under sale contract) and as patentees subdivide their parcels. 0.33 of an NRO II full-time equivalent first year (\$17.4); then .36 (\$19.0), .4 (\$21.1), .5 (\$26.4), .6 (\$31.7), .7 (\$37.0). Travel costs assume seven days' per diem payments averaging \$75/day for multi-day inspection trips, plus seven days' meal allowance at \$21/day for day trips exceeding 10 hours, for first-year costs of \$0.7, increasing annually. Travel-related contractual: Each air charter is estimated at 2 hrs. @ \$225/hr.; eight charters in first year for a total of \$3.6, increasing to \$4.0; \$4.4; \$4.8; \$5.3, \$5.8 by last year. 67 inspections by road require one 4WD car, four months in first year, at \$447.00 rental per vehicle-month or \$1.8; then \$2.0; \$2.2; \$2.4; \$2.7; \$3.0. **Total for monitoring: \$23.5 first year, increasing annually.**

Change in revenues as a result of conversion: Analysis assumes that five owners will each subdivide their tracts into four parcels the first year, creating 15 additional parcels that need to purchase the right to a new dwelling site at \$6,000 each (count is 15 instead of 20 because each original parcel included a dwelling right). New subdivisions are assumed to increase by one owner per year, drawing from the pool of 358 agricultural parcels that have already been patented or are currently under contract that will lead to patent. (Agricultural homesteads are not included in this count because they already include the right of subdivision into 40-acre parcels that all have a dwelling site.) **Total revenue change +90.0 first year, increasing annually.**

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

REPORTED OUT OF
SFC MAR 26 1997

BILL NO. SB109

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural purposes BRU: Resource Development
and to state lan classified for agricultural purposes.... Component: Land Development
 Sponsor: GREEN
 Requestor: (S)FIN Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	110.4	187.7	63.4	69.7	79.2	84.5
TRAVEL	1.9	2.1	2.3	2.5	2.8	3.1
CONTRACTUAL	19.0	16.3	18.0	19.6	21.9	23.9
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRAFFITS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	131.3	206.1	83.7	91.8	103.9	111.5

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1005)	(3,200.0)	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	131.3	206.1	83.7	91.8	103.9	111.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	131.3	206.1	83.7	91.8	103.9	111.5

Estimate of any current year (FY97) cost: \$ None

POSITIONS

FULL-TIME	2.3	4.1	1.2	1.3	1.5	1.6
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Conversion of existing patents: Assumes 230 existing ag patents are eligible and that conversion can be completed in first two years. Process begins by setting up data base, then giving public notice of conversion opportunity by mailout to last known address and by ads in five Alaska newspapers. This first-year phase would require 4 person-months' work by an NRO II and an Admin Clerk II, total \$14.4, plus contractual costs of \$4.1 for certified mail and publication twice in five newspapers. Next phase is accepting deeds from patentees and adjudicating title conflicts: 12 person-months in the first year (6 mos. each for NRO II and Admin Clerk II), \$43.2, plus 24 person-months in the second year (12 mos. each for NRO II and Admin Clerk II), \$86.4. Final phase in second year, is issuing patent if title conflicts resolved: 12 person-months (6 each of NRO II and Admin Clerk II), \$43.2. Cost would be lower if Secs. 12-13 are amended as recommended in DNR's letter to Sen. Green dated March 19, 1997. **Total for conversion: \$61.7 FY98, \$129.6 FY99, grand total \$191.3.**

Prepared by: Jane Angvik *[Signature]* Phone: 269-8503
 Division: Land Date: 20-Mar-97
 Approved by Commissioner: *[Signature]* Date: 3/21/97
 Agency: Natural Resources

ANALYSIS (cont.)

Monitoring/enforcement of agricultural covenant: Analysis assumes that only the state can enforce the covenant and that annual monitoring of each parcel is needed so that the courts do not deem the covenant "waived or abandoned." (These figures would be lower if DNR's recommendations to the sponsor in its letter dated March 19, 1997 are accepted.) Monitoring would be done mostly by surface transportation, with 10% by air charter for landowners who are uncooperative and whose improvements cannot be seen by road, at average of one per day (including time needed for follow-up on apparent violations: document on film, research current owner at Recorder's Office, correspond with landowner, refer unresolved violations to Dept. of Law for prosecution, and provide litigation support). Enforcement officer would be an NRO II. 230 farms would be monitored first year, with numbers increasing by 10% every year as new patents are issued (183 parcels are currently under contract) and as patentees subdivide their parcels. 1.0 full-time equivalent first year @ \$52.8; then 1.1 (\$58.1), 1.2 (\$63.4), 1.3 (\$69.7), 1.5 (\$79.2), 1.6 (\$84.5). Travel costs assume 20 days' per diem payments averaging \$75/day for multi-day inspection trips, plus 20 days' meal allowance at \$21/day for day trips exceeding 10 hours, for first-year costs of \$1.9, increasing annually. Each air charter is estimated at 2 hrs. @ \$225/hr.; 23 in first year for a total of \$10.4, increasing to \$11.4; \$12.6; \$13.8, \$15.2, \$16.7 by last year. 207 inspections by road require two 4WD cars, five months each in first year, at \$447.00 rental per vehicle-month or \$4.5; then \$4.9; \$5.4; \$5.8; \$6.7; \$7.2. **Total for monitoring: \$69.6 first year, increasing annually.**

Change in revenues as a result of conversion: The sales price of parcels that have already been patented or are currently under contract was based on the original rights conveyed. Their fair market value rises if additional rights are conveyed, particularly the right to subdivide into four residence sites instead of one. 358 parcels were originally or are presently being conveyed on a one-homesite-per-parcel basis (agricultural homesteads are not included in these totals, as they have always allowed subdivision into four residence sites if the original parcel was a full 160 acres). Change in value would vary by region because of differing real estate values. The figures include "raw" value only, not the "retail" cost, because the latter includes the subdivider's costs of additional survey, platting, amenities such as roads, and marketing. For Delta parcels, the raw value of each additional residence site is zero to \$4,000 (local real estate values are depressed due to military base closure); Nenana-North Pole, \$1,000 to \$5,000; Matanuska Valley and Kenai Peninsula, \$2,000 to \$6,000. An unweighted average of \$3,000 is used for this estimate: 358 parcels times three extra residence sites per parcel times \$3,000 for a total of \$3.2 million. Revenue change is attributed to first year only, though it would actually be spread over a longer period as new patents are issued. Analysis assumes this value is lost to the state, thus a negative impact on revenues. If Secs. 11-12 are changed as recommended in DNR's letter to the sponsor dated March 19, 1997, revenue would instead be gained by the state. **Total revenue change (-\$3,200.0) first year only.**

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB109(FIN)

Revision Date: 3-Apr-97 Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural... BRU: Agricultural Development
 Sponsor: Sen. Green Component: Agricultural Development
 Requestor: (S) RLS Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.4	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	11.4	11.4	11.4	11.4	11.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	28.5	11.4	11.4	11.4	11.4	11.4

Estimate of any current year (FY97) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 400 plus land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Prepared by: Jay Kerttula, Director *Mica Bay to* Phone: 745-7200
 Division: Agriculture Date: 3-Apr-97
 Approved by Commissioner: *Mica Bay to* Date: 4-3-97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

REPORTED CLY BILL NO. SB 109

MAR 20 1997

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural purposes and to state land classified for agricultural... BRU: Agricultural Development
 Component: Agricultural Development
 Sponsor: Green, Pearce
 Requestor: (S)FIN Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	28.5	11.4	11.4	11.4	11.4	11.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	28.5	11.4	11.4	11.4	11.4	11.4
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	28.5	11.4	11.4	11.4	11.4	11.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	28.5	11.4	11.4	11.4	11.4	11.4

Estimate of any current year (FY97) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Section 4 of the bill allows for appeals based on economics. It is estimated that approximately 25% of 400 plus land sales would be appealed on economics the first year, at 10% in future years, at a cost of approximately \$240/appeal.

Prepared by: Jay Kerttula, Director *Canall Sr* Phone: 745-7200
 Division: Agriculture Date: 20-Mar-97
 Approved by Commissioner: *Canall* Date: 3/21/97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 109 (FIN)

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to land used for agricultural BRU: Civil Division
purposes . . . annulling certain program regulations . . . Component: General Legal Services
 Sponsor: Senator Green
 Requester: Senate Finance Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	107.5	107.5	107.5	107.5	107.5	107.5
TRAVEL	2.9	2.9	2.9	2.9	2.9	2.9
CONTRACTUAL	19.5	19.5	19.5	19.5	19.5	19.5
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT	6.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	138.5	132.0	132.0	132.0	132.0	132.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	138.5	132.0	132.0	132.0	132.0	132.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	138.5	132.0	132.0	132.0	132.0	132.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 109 (FIN) requires the Department of Natural Resources to make conveyances of land used for agricultural purposes.

The bill would increase the burden on the state to enforce covenants requiring that grantees under CSSB 109 (FIN) use conveyed parcels only for agricultural purposes. Under existing law, the state conveys only agricultural rights in land, while retaining the underlying fee title, subject to a reversionary interest triggered if the grantee uses the land for non-agricultural purposes. The state can enforce its rights through an administrative proceeding to terminate the grantee's rights, with the grantee having the right to judicial review.

CSSB 109 (FIN) would require the state bring a civil action in state court to enforce the agriculture-only covenants. Under the bill, the state would no longer retain a reversionary interest in the land, and its remedies would be restricted to damages or injunctive relief for specific performance. Because the state would have significantly less leverage in terms of its remedies, the potential for litigation would increase. In addition,

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 4/3/97
 Date: 4/3/97

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Rec'd after

bill R/10

ANALYSIS CONTINUATION:

because the courts have found restrictive covenants waived for non-enforcement, the state would be under pressure to strictly monitor parcels for compliance with the covenants and bring timely legal actions, rather than risk waiving our rights.

The Division of Agriculture estimates that there are currently 475 agricultural-use parcels, of which 250 are in the Kenai Peninsula and Mat-Su Boroughs, and in the Fairbanks area. The parcels average 215 acres in size. CSSB 109 (FIN) permits subdividing the parcels into not more than four parcels of not less than 40 acres each. This could triple the number of parcels that should be monitored for covenant violations. In addition, the legislation proposes to make the terms for acquiring a parcel more attractive than current law. This could also have the effect of increasing the number of agricultural-use parcels.

The Finance Committee Substitute requires payment to the state for the non-agricultural value of a parcel as a prerequisite to subdivision and sale. The owner is exempted from this requirement, however, if the subdivided parcel is conveyed to an immediate family member. Therefore, parcels will need to be monitored to ensure that the state receives any payments due. The committee substitute also creates a private cause of action to enforce the agricultural use covenants. This may arguably reduce the potential for future enforcement actions brought directly by the state, but the state will still be required to monitor any private or municipal enforcement actions brought under the proposed statute.

The department does not anticipate the changes made to SB 109 by the Senate Finance Committee will materially change the anticipated workload and estimates the need for one full-time equivalent attorney position to handle the increased workload that would result. The full-time equivalent cost estimate is based on the department's standard attorney cost schedule (\$127,000) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Case specific costs and one-time equipment purchases are not included in the rate, and so are added separately (direct case costs, \$5,000; one-time equipment purchases, \$6,500).

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

REPORTED OUT OF
SFC MAR 25 1997

BILL NO. SB 109 |

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to land used for agricultural
purposes . . . annulling certain program regulations . . .
 Sponsor: Senator Green BRU: Civil Division
 Requester: Senate Finance Component: General Legal Services
 COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	107.5	107.5	107.5	107.5	107.5	107.5
TRAVEL	2.9	2.9	2.9	2.9	2.9	2.9
CONTRACTUAL	19.5	19.5	19.5	19.5	19.5	19.5
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT	6.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	138.5	132.0	132.0	132.0	132.0	132.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF	138.5	132.0	132.0	132.0	132.0	132.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	138.5	132.0	132.0	132.0	132.0	132.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SB 109 requires the Department of Natural Resources to make conveyances of land used for agricultural purposes.

The bill would increase the burden on the state to enforce covenants requiring that grantees under SB 109 use conveyed parcels only for agricultural purposes. Under existing law, the state conveys only agricultural rights in land, while retaining the underlying fee title, subject to a reversionary interest triggered if the grantee uses the land for non-agricultural purposes. The state can enforce its rights through an administrative proceeding to terminate the grantee's rights, with the grantee having the right to judicial review.

SB 109 would require the state bring a civil action in state court to enforce the agriculture-only covenants. Under the bill, the state would no longer retain a reversionary interest in the land, and its remedies would be restricted to damages or injunctive relief for specific performance. Because the state would have significantly less leverage in terms of its remedies, the potential for litigation would increase. In addition, because the courts

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 3/19/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/19/97
 Agency: Department of Law

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ANALYSIS CONTINUATION:

have found restrictive covenants waived for non-enforcement, the state would be under pressure to strictly monitor parcels for compliance with the covenants and bring timely legal actions, rather than risk waiving our rights.

The Division of Agriculture estimates that there are currently 475 agricultural-use parcels, of which 250 are in the Kenai Peninsula and Mat-Su Boroughs, and in the Fairbanks area. The parcels average 215 acres in size. SB 109 permits subdividing the parcels into not more than four parcels of not less than 40 acres each. This could triple the number of parcels that should be monitored for covenant violations. In addition, the legislation proposes to make the terms for acquiring a parcel more attractive than current law. This could also have the effect of increasing the number of agricultural-use parcels.

The department anticipates needing one full-time equivalent attorney position to handle the increased workload that would result for SB 109. The full-time equivalent cost estimate is based on the department's standard attorney cost schedule (\$127,000) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Case specific costs and one-time equipment purchases are not included in the rate, and so are added separately (direct case costs, \$5,000; one-time equipment purchases, \$6,500).

STAFF FINANCE
COMMITTEE

Amendment Number: 5

Bill Number: SB 109

Sponsor: _____ Date: 3-21-97

Logged In By: pg

0-LS0690.A.3

Chenoweth

3/21/97

AMENDMENT

OFFERED IN THE SENATE

TO: SB 109

1 Page 1, lines 4 - 5:

2 Delete "are inconsistent with the amendments made by this Act"

3 Insert "relate to agricultural land and agricultural homesteads"

4 Page 9, line 2, following "annulled":

5 Insert "11 AAC 67.149(b), 11 AAC 67.154, 11 AAC 67.155,"

SENATE FINANCE
COMMITTEE

0-LS0690A.5

Chenoweth

3/21/97

Amendment Number: 4

Bill Number: SB 109

Sponsor: _____ Date: 3-21-97

~~A MEMORANDUM~~ DV
10

OFFERED IN THE SENATE

TO: SB 109

W/d #4

Green

- 1 Page 1, line 8:
- 2 Delete "sec. 9"
- 3 Insert "sec. 8"

- 4 Page 1, line 11, through page 2, line 29:
- 5 Delete all material.

- 6 Renumber the following bill sections accordingly.

- 7 Page 4, line 24:
- 8 Delete "described by aliquot parts"

- 9 Page 7, line 27:
- 10 Delete "sec. 9"
- 11 Insert "sec. 8"

- 12 Page 7, line 29:
- 13 Delete "sec. 9"
- 14 Insert "sec. 8"

- 15 Page 8, line 5:
- 16 Delete "secs. 9 and 11"
- 17 Insert "secs. 8 and 10"

- 18 Page 8, line 16:

1 Delete "sec. 9"

2 Insert "sec. 8"

3 Page 8, line 17:

4 Delete "sec. 10"

5 Insert "sec. 9"

6 Page 8, line 24:

7 Delete "secs. 9 - 11"

8 Insert "secs. 8 - 10"

SENATE FINANCE
COMMITTEE

Amendment Number: 3

Bill Number: SB 109

Sponsor: _____ Date: 3-21-97

Logged In By: Dy

0-LS0690A.4

Chenoweth

3/21/97

AMENDMENT

OFFERED IN THE SENATE

TO: SB 109

- 1 Page 3, line 7:
- 2 Delete "may"
- 3 Insert "[MAY]"

- 4 Page 3, line 8, following "(1)":
- 5 Insert "may"

- 6 Page 3, line 14, following "(2)":
- 7 Insert "may"

- 8 Page 3, line 16, following "(3)":
- 9 Insert "may"

- 10 Page 3, line 17, following "(4)":
- 11 Insert "may"

- 12 Page 3, line 19, following "(5)":
- 13 Insert "may"

- 14 Page 3, line 24, following "(6)":
- 15 Insert "may"

- 16 Page 3, line 29, through page 4, line 2:
- 17 Delete
- 18 "(7) waive, postpone, or otherwise modify the development

1 requirements of a contract for the sale of agricultural land if

2 (A) the land is inaccessible by road; or [AND]

3 (B) transportation, marketing, and development costs render the
4 required development uneconomic;"

5 Insert new material to read:

6 "(7) with reference to [WAIVE, POSTPONE, OR OTHERWISE
7 MODIFY] the development requirements of a contract for the sale of agricultural land,
8 [IF]

9 (A) shall waive, postpone, or otherwise modify the
10 requirements if the estimated cost of construction of a year-round road
11 access exceeds 50 percent of the assessed value of the parcel that is the
12 subject of the land sale contract; or [THE LAND IS INACCESSIBLE BY
13 ROAD; AND]

14 (B) may waive, postpone, or otherwise modify the
15 requirements if transportation, marketing, and development costs render the
16 required development uneconomic;"

17 Page 4, line 3, following "(8)":

18 Insert "may"

SENATE FINANCE
COMMITTEE

Amendment Number: 2

Bill Number: SB 109

Sponsor: _____ Date: 3-21-97

Logged In By: PJ

0-LS0690A.1

Chenoweth

3/21/97

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 109

1 Page 6, lines 2 - 7:

2 Delete all material and insert:

3 "(1) a perpetual covenant for the benefit of all Alaska residents and
4 running with the land that restricts or limits the use of the land for agricultural
5 purposes; and

6 (2) a perpetual covenant for the benefit of all Alaska residents and
7 running with the land permitting the owner of the land to subdivide and convey the
8 land in four parcels of not less than 40 acres each."

9 Page 7, lines 3 - 25:

10 Delete all material and insert:

11 "(3) the commissioner may not limit the right of a landowner to

12 (A) construct housing and improvements related to agricultural
13 use on the original parcel and on additional subdivided parcels authorized
14 under (a)(2) of this section;

15 (B) use the land and improvements for purposes that are
16 incidental to and not inconsistent with the primary use of the land for
17 agricultural purposes; and

18 (C) subdivide and convey the land if the resulting parcels are
19 not in violation of the minimum parcel size set out in (a)(2) of this section.

20 (e) A perpetual covenant described in (a) of this section may be enforced only
21 by a civil action brought by the state, a municipality, or a resident. If a municipality
22 or a resident brings an action under this subsection, the municipality or resident shall
23 also serve a copy of the summons and complaint on the state in the manner prescribed
24 by the Alaska Rules of Civil Procedure for service on the state. An action may be

- 1 maintained under this subsection only if
- 2 (1) commenced within 10 years after the cause of action has accrued;
- 3 and
- 4 (2) the plaintiff has first notified in writing the appropriate soil and
- 5 water conservation district under AS 41.10 of the violation of the covenant at least 90
- 6 days before the civil action is filed.
- 7 (f) In this section, "agricultural purposes" means
- 8 (1) the production, for commercial or personal use, of useful plants
- 9 and animals;
- 10 (2) the construction of housing or improvements reasonably required
- 11 for or related to agricultural use;
- 12 (3) the use of gravel reasonably required or related to agricultural
- 13 production on the parcel conveyed; and
- 14 (4) removal and disposition of timber in order to bring agricultural
- 15 land into use."

AMENDMENT

OFFERED IN THE SENATE
TO: SB 109

1 Page 8, line 6, following "only if":

2 Insert new material to read:

3 "(1) subject to (d) of this section, the owner of the rights tenders payment to
4 the department for the fair market value of the interest in the land exclusive of the value of
5 the rights for agricultural purposes; for purposes of this paragraph,

6 (A) for a parcel of land that does not exceed 640 acres, fair market
7 value of the interest in the land exclusive of the value of the rights for agricultural
8 purposes may not exceed the lesser of \$150 per acre or \$6,000 for the parcel;

9 (B) except for land described in (A) of this paragraph, fair market
10 value of the interest in land exclusive of the value of the rights for agricultural
11 purposes shall be determined by an appraisal by an appraiser under contract to the
12 owner of the rights for agricultural purposes in the land; the appraisal must be based
13 upon the value of the land at the time of the original state conveyance of the
14 agricultural rights; and

15 (2)"

16 Page 8, following line 14:

17 Insert a new subsection to read:

18 "(d) Notwithstanding (b)(1) of this section, the owner of the rights to agricultural land
19 who applies to the Department of Natural Resources is not required to pay an amount due
20 under (b)(1)(A) or (B) until the land for which application was made is conveyed by the
21 owner to a person not a member of the person's immediate family. For purposes of this
22 subsection, "immediate family" means

23 (1) the spouse or spousal equivalent of the person; or

24 (2) a parent, child, including a stepchild and an adoptive child, or sibling of

1 the person if the parent, child, or sibling resides with the person, is financially dependent on
2 the person, or shares a substantial financial interest with the person."

3 Page 8, line 25, following "only if":

4 Insert new material to read:

5 "(1) subject to (d) of this section, the owner of the rights tenders payment to
6 the department for the fair market value of the interest in the land exclusive of the value of
7 the rights for agricultural purposes; for purposes of this paragraph,

8 (A) for a parcel of land that does not exceed 640 acres, fair market
9 value of the interest in the land exclusive of the value of the rights for agricultural
10 purposes may not exceed the lesser of \$150 per acre or \$6,000 for the parcel;

11 (B) except for land described in (A) of this paragraph, fair market
12 value of the interest in land exclusive of the value of the rights for agricultural
13 purposes shall be determined by an appraisal by an appraiser under contract to the
14 owner of the rights for agricultural purposes in the land; the appraisal must be based
15 upon the value of the land at the time of the original state conveyance of the
16 agricultural rights; and

17 (2)"

18 Page 9, following line 1:

19 Insert a new subsection to read:

20 "(d) Notwithstanding (b)(1) of this section, the owner of the rights to agricultural land
21 who applies to the Department of Natural Resources is not required to pay an amount due
22 under (b)(1)(A) or (B) until the land for which application was made is conveyed by the
23 owner to a person not a member of the person's immediate family. For purposes of this
24 subsection, "immediate family" means

25 (1) the spouse or spousal equivalent of the person; or

26 (2) a parent, child, including a stepchild and an adoptive child, or sibling of
27 the person if the parent, child, or sibling resides with the person, is financially dependent on
28 the person, or shares a substantial financial interest with the person."

Farmland protection: Plan sparks hot debate

Western Washington officials set to vote on proposed tax to fund farm conservation plan

By COOKSON BEECHER
Capital Press Staff Writer

MOUNT VERNON, Wash. — Skagit County is wrestling with the challenge of protecting its farmland from development, and almost everyone here has an opinion about it.

After a lively packed-house public hearing this week about a proposed ordinance designed to preserve farmland, the Skagit County Commissioners decided to vote on the proposal next week.

The vote will take place during a public meeting scheduled from 1:30 to 2 p.m., Monday, Dec. 2, in the commissioners' office in the Administration Building in Mount Vernon, Wash.

If the ordinance is adopted, citizens would pay 6 1/4 cents per thousand dollars of assessed value each year. Using money collected under the ordinance, the county would create a Conservation Futures Fund to purchase development rights on farmland.

The goal is to allow farmers to realize the difference in value between their property as agricultural land and developed land, yet continue to own and farm it. For farmers, it's a voluntary program. And since there's only so much money available, a committee would be set up to prioritize the farmland to be preserved.

This is a hot issue, as the public hearing, which drew about 200 citizens, quickly proved. The 41 citizens who went to the podium made impassioned pleas either for or against the proposed ordinance, with audience members who agreed with them clapping loudly after their comments.

Many of those pleading their case before the commissioners were farmers — some of them saying they didn't need to be taxed to be saved from themselves and emphasizing that it's the farmer, not the farmland, that needs to be protected.

Other farmers, however, warned that the county's agricultural land base needs to be preserved in order for farming to continue in the valley.

"What bothers me about this program is that it's an involuntary tax, but it's voluntary participation — but a very limited voluntary participation," said Bow area farmer Annie Lohman.

Emphasizing the importance of creating the right economic climate for ag-related industries, she told the audience how they could do this: "If you want to preserve the farmer, preserve the economics of farming, encourage processors, encourage another seed company to come to the area. Try to diversify the agricultural base, but keep it agriculture. Don't make us your pet farmers, because we can't farm if we're just a pet."

Ken Christianson of Alf Christianson Seed Co.

(See DEBATE on Page 2)

FOR INFORMATION

Those who would like more information about the proposed ordinance are encouraged to call the Skagit County Commissioners' office at (360) 333-1111. Please refer to Proposition 1 on the ballot. Skagit County Farmland at (360) 486-2584.

Debate

(Continued from Page 1)

agreed that buying development rights on farmland is not the one and only answer. But he emphasized how important farmland in Skagit County is to his company.

"We depend on local growers in Western Washington to produce our vegetable seed crop, which we market worldwide," he said.

"I favor the tax. We're concerned about encroachment in the ag areas, and for the farmers who choose to avail themselves of this (the purchase of development rights), we'd like to see it available. We hope this will be one tool of management that growers in the area can employ to give them options."

Wilbur Anderson, manager of the Washington State University Research and Extension Unit in Mount Vernon, supplied some fig-

ures to show the critical importance of working toward a solution.

In 1940, the farmland base in Skagit County was nearly 153,000 acres, although some of it was not prime agricultural land. By the 1990s, the farmed acreage had dropped to about 90,000 acres.

"There has been a straight-line loss of farmland acreage since the 1960s," he said referring to the growth of Burlington and Mount Vernon, two of the largest cities in the county.

"There is no indication the loss is slowing down," Anderson said. "Additional strategies must be implemented. We need to put another tool in the county's tool box of conservation futures that will help encourage the protection of our farmland base."

Use of Hawaii ag land under fire

HILO, Hawaii (AP) — Plans for a members-only, 50-unit lodge in North Kona is being challenged by two West Hawaii women who contend it's an urban project being forced onto an agricultural area.

Agricultural consultant Sally Rice and Debralee Kailiwai-Ray said allowing the lodge at Puuanahulu would set a precedent that could open the door to other commercial development on agricultural land.

They also said the developer is trying to subvert the process by going through the county Planning Commission for approval rather than the state Land Use Com-

mission.

But the attorney for developer Big Island Country Club and Estates, Sandra Pechter Schutte, said that won't be the case because the law requires the county to evaluate every application separately.

Work has already begun on a 27-hole golf course and clubhouse at the site, which is 15 miles north of Kailua-Kona.

Rice and Kailiwai-Ray have filed a court-like contested case against the lodge with the county Planning Commission and have asked the state Land Use Commission for a ruling.

Members of FARM believe there health impact of farm animals.

buy land rights

By DON RICHARDSON
Capital Press Staff Writer

OLYMPIA — Thurston County commissioners decided this week they will offer to buy development rights from farmers in the Nisqually Valley in an effort to save the scenic valley from subdividers.

The valley, one of the few remaining large tracts of level undeveloped land in the county, is located on Interstate 5 about 15 miles east of Olympia. It is bordered on the north by the Nisqually Wildlife Refuge.

Owners of more than 900 acres in the valley, if they choose to take part in the program, could still live on the land and continue to farm it or sell it to another farmer. But if they sell their development rights the county would take an irrevocable conservation easement on the land and it could only be used for agriculture from then on.

The land will be appraised and farmers will be offered the difference between the land's value for farming and what it would bring if sold for development.

If every owner participated, the program would cost about \$2.5 million, said county planner Steve Morrison.

Money for development right purchases would come from a conservation futures fund that levies 6 1/4 cents per \$1,000 valuation on all property in the county.

Commissioners said Monday that a previous commission promised property owners in the valley a development right purchase program would be offered if they would agree to restrictions on zoning in the area.

Fred Schilter, whose father purchased about 100 acres of land in the valley in 1940, said he and his son, Jeff, want to see how much they would get for the land before they decide whether to participate. The Schilters operate a 170-cow dairy on their Nisqually area property.

Cap. - Press - May 24-96

Borders, homes devour farmland

SALEM (AP) — Cities' growth boundaries creep outward, ordinary residences sprout on agricultural land. The threat of encroaching development is the bane of farmers, some say.

"To me if it's high value farmland, it's sacred," said **POUL OLSON**, a farmer worried about development even in Jefferson County's open spaces in north-central Oregon.

"I've lived here since 1950, and it's frightening, is what it is."

Olson raises grass seed, garlic and other crops north of Medford. He is in a group of farmers from around the state who have joined forces with 1000 Friends of Oregon to recommend added protection of agricultural land.

1000 Friends was formed by the late Gov. Tom McCall and other backers of the state land-use planning law passed in 1973. Preserving prime farmland was a key aim of the law.

1000 Friends says the law has slowed, but not stopped, the crawl of urban development onto farmland.

Urban expansion was gobbling about 30,000 acres of agricultural land a year when the law passed.

By comparison, the city of Medford covers about 15,000 acres. The rate had slowed to about 10,000 acres a year by the early 1990s. Most of that expansion was onto land inside city urban growth boundaries.

Expansion of urban growth bor-

ders and rezoning is eating up about 3,000 acres of farmland annually outside of the cities.

"The way Oregon is growing, I think you can only expect to see more of that," said Kevin Kasowski, spokesman for 1000 Friends.

1000 Friends has created a farmer advisory committee to recommend land-use planning changes to the state Land Conservation and Development Commission.

The major proposals include banning urban growth boundary expansions onto land zoned for exclusive farm use, tighter restrictions against having non-farm dwellings on farmland and rules against carving land zoned exclusively for farming into smaller units.

Urban growth boundaries are supposed to be the edge of expansion of city-type densities. But they are moving too easily sometimes, Kasowski said.

Farmers also are worried about increasing numbers of non-farm homes put on agricultural lands, and non-farm uses of the lands, he said.

1000 Friends said loopholes are allowing almost 1,000 home sites a year to be approved in farm zones. Olson said the laws and regulations were not adequate.

In one case, he said, a landowner was denied permission to put a non-farm dwelling on farmland. The owner's renter then applied and authorities could not find any way in the law to reject the request.

Food prices sure to rise as farming becomes harder

The radio announcer the other day said: "Food inflation is continuing as a concern for consumers."

Well, it should be a concern, thank you.

And no wonder.

As an ever-more-urban society, we have spent the past 50 years taking fertile land near cities out of cultivation and planting houses on it. We have spent the last 25 years cross-fencing our remaining agricultural landscape with often-specious bureaucratic barbed wire. We have spent the last 15 years taking apart federal farm programs that in many ways assured a relatively inexpensive supply of food. We have spent the last 20 years being bombarded by the works of well-meaning but ill-informed activists who see modern farming as a plot to kill the population.

Throughout all this, though, farmers have persisted. They continue to feed and clothe us in spite of ourselves.

But the relentless attack on the farming way of life continues.

The result is bound to be not only higher food prices, but in our paying a greater share of our incomes for food than we do now.

Take Jay's cows, for example.

Jay is a friend of mine, the third generation of his family to be part of a wide-ranging farming concern with interests in three states. And, he's the second generation to run a 6,000-acre ranch. Jay's ranch is large by most standards, and his 600 Hereford and mixed brood cows are paid for. His ranch is in a high desert, which means cows have to walk a ways between blades of grass. But he has a few hundred acres of irrigated pasture, which yields feed through grazing and hay. He isn't hurting, at least not as much as some in these times of lousy beef prices.

But, he has a problem. The face



of that problem belongs to a woman nicknamed Goldie, but she isn't really the difficulty. She represents a much larger entity, which is something I'll call the urban point of view.

Goldie is a bright, well-educated and decorated environmental activist. She believes all cattle grazing in national forests should be banned. Her belief comes from damage she has seen when hiking in riparian areas — areas near streams, creeks, ponds and other natural waterways. Evidence tells her this damage has been done by cattle, and she is right.

The damage includes pollution, destruction of plant life, destruction of habitat for small animals.

She is an owner of the national forests, and like any well-meaning landholder she wants destructive tenants out. To her, cattle are destructive tenants.

A lot of people agree with her.

And that affects Jay.

Never mind that Jay's cattle never have been responsible for any of the damage Goldie has seen.

In fact, as near as anybody can tell, the owner of the miscreant cattle is a dentist in New York who has never seen his spread — which consists of federal-lands grazing rights and a small homestead adjacent to the forest. For the dentist, the spread is a tax dodge. He hires the work done.

True, Jay grazes cattle on national forest lands. He has a fair-sized leasehold. But unlike the dentist, he's on hand every day to make

sure his cattle stay where they're supposed to. He has fenced off the riparian areas on his leasehold. He had wells drilled, and he put in windmills, so cattle and wild animals can drink. He rotates grazing so vegetation isn't destroyed.

And he's happy to do all this, because it's good farming practice.

And yet, Goldie, who leads a group of vocal citizens who want the feds to be even more restrictive of grazing than they have been, wants to kick Jay off this leasehold, along with the dentist.

"Cattle have no business grazing in forests," she often is quoted as saying. "The forests should be preserved for the people."

Now, Jay will be able to adjust if he can't graze his animals on federal land. He'll cut his herd size, or buy more feed from outside sources.

Many others like Jay will adjust or they will go out of business.

At the very least, thousands of cattle simply won't be raised, or will be raised at greater cost.

And in the end, it's those who eat beef who will pay those higher costs.

That reality will be true along many links of the food chain.

Almost every area of agriculture endeavor is under some sort of pressure from urban political interests to make changes.

As richly blessed as we are with agricultural resources, we've been able to absorb a lot of attacks by urbanites on farmers and the way farmers do business without appreciable increases in food costs.

But those days are fast fading. Food inflation? You haven't seen anything yet.

Chuck Doud is general manager of the Capital Press.

Seattle Times

5/19/96

Worried Oregon farmers organize

BY CHARLES E. BEGGS
Associated Press

SALEM, Ore. — Cities' growth boundaries creep outward, ordinary residences sprout on agricultural land. The threat of encroaching development is the bane of farmers, some say.

"To me if it's high-value farmland, it's sacred," said Ron Olson, a farmer worried about development even in Jefferson County's open spaces in north-central Oregon.

"I've lived here since 1950, and it's frightening, is what it is."

Olson raises grass seed, garlic and other crops north of Madras. He is in a group of farmers from around the state who have joined forces with 1000 Friends of Oregon to recommend added protection of agricultural land.

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farmland.

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The rate had slowed to 10,000 acres a year by the early 1990s. Most of that expansion was onto land inside city urban-growth boundaries.

Expansion of urban-growth borders and rezoning is eating up 3,000 acres of farmland annually outside of the cities.

"The way Oregon is growing, I

Problem; this is nationwide

to keep the developers at bay

think you can only expect to see more of that," said Kevin Kasowski, spokesman for 1000 Friends.

1000 Friends has created a farmer-advisory committee to recommend land-use planning changes to the state Land Conservation and Development Commission.

The major proposals include banning urban-growth-boundary expansions onto land zoned for exclusive farm use, tighter restrictions against having nonfarm dwellings on farmland and rules against carving land zoned exclusively for farming into

smaller units.

Urban-growth boundaries are supposed to be the edge of expansion of city-type densities. But they are moving too easily sometimes, Kasowski said.

Farmers also are worried about increasing numbers of nonfarm homes on agricultural lands, and nonfarm uses of the lands, he said. 1000 Friends said loopholes are allowing almost 1,000 home sites a year to be approved in farm zones.

"We haven't planned rural areas at all," said Larry George, executive

director of Oregonians in Action, a property-right organization. "Out people are trying to build a house on a piece of land in a rural area, and we have massive restrictions in rural areas."

Local governments designated 97 percent of the state land for exclusive farm or forest use without refining the categories, he said.

George, who said his family had a long history of farming, said residential growth should be directed to less productive lands, probably easing some restrictions on them.

seed potatoes, which are used as seed to grow potatoes for food consumption.

Further, perpetuation of cultivar stocks in British Columbia, Canada, is being phased out, and Kerttula sees Alaska as a natural successor. The plant material center in Palmer already has 120 varieties there.

level with crops for such a small time each year.

"You've got to really hustle them," Kerttula said. "We haven't really broken into that market."

"I think our goals should be modest," added Kerttula, who noted at present Alaskan farmers meet 2 percent of the state's need for food. "I say, let's try for 5 percent by the year 2000."

Mat-Su Valley losing farm lands

By VICKI NAEGELE
Frontiersman; managing editor

Despite a successful state program to keep Valley land under agricultural production, Alaska's premier growing area is losing ground.

Between the 1987 and 1992 censuses, the Matanuska Valley lost one-quarter of its land in farms, according to statistics compiled by the Alaska Agricultural Statistic Service.

Legislation to preserve farmland came too late to make much of an impact in the Mat-Su Valley area, according to Jay Kerttula, director of the state's Division of Agriculture.

Since 1972, there has been a state law in effect that gives farmers a tax break.

Under the current version of the law, if 10 percent of a family's gross income comes from farming the borough places a maximum value on farm land of \$250 an acre, depending on the quality of the soils.

That could compare to a \$1,500-1,800 an acre assessment for a large parcel of non-agricultural land.

"That's a conservative price for agricultural land," commented Rita Loyer, senior appraiser for the borough.

This year, there are 11,534 acres within the borough enrolled in the program, resulting in \$263,540 in taxes being deferred — perhaps indefinitely.

Farmers say the program is important.

"For private ownership, the tax program has worked really well," said Jay Dearborn, who farms about 50 acres in the Valley.

"Our taxes were getting pretty high. We could see we could not go on that way."

Leonard Moffitt, who has been farming here since 1946, agreed. "It has really helped."

If the farmer converts the land to another use — like a subdivision — he must pay the tax difference back seven years, at 8-percent interest.

"So it's a carrot and a stick," Kerttula, a former state senator,

'Point MacKenzie was our hope and aspiration. We are fighting now to re-establish agriculture in the new lands districts in Delta and Point MacKenzie.'

— Jay Kerttula, director
Division of Agriculture

explained.

But the carrot and the stick come after the horse is out of the barn in the Valley, Kerttula said.

Even with the program in place, the rapidly growing Matanuska Valley lost 28 farms and 12,151 acres of farmland between the US Department of Commerce's agricultural 1987 and 1994 censuses.

Moffitt pointed to the failure of farms in the Point MacKenzie area. Dearborn, who is also president of the Alaska Seed Growers Association, said one cause is likely the retirement of farmers who have no one to take over the family business.

"That's a situation where we probably lose farmland," Dearborn said.

With more and more Valley acreage going under homes instead of under the plow, state agricultural officials are looking toward Point MacKenzie and Delta Junction as the future for

agriculture in Alaska.

"Point MacKenzie was our hope and aspiration," Kerttula said. "We're fighting now to re-establish agriculture in the new lands districts in Delta and Point MacKenzie."

In Delta this year, farmers are growing some 9,000 acres of barley, 2,000 acres of other grains, and 400-500 acres of potatoes.

"It looks like a little Kansas," said Kerttula, smiling.

In the new lands areas, 500,000 acres of these new lands cannot be converted to real estate because of state regulations. Legislation has made it so only the agricultural rights are conveyed to farmers, not actual property rights.

According to statistics from the Alaska Agriculture Statistic Service, in 1994 some 7,900 acres in the Matanuska Valley were harvested for hay.

The 9,900 acres of grass hay harvested in the Valley represented 48 percent of the hay grown in Alaska. The Tanana Valley grew 7,600 tons.

The second-highest number of acreage in the Matanuska Valley was devoted to silage production, at 700 acres. Potatoes were third, with 510 acres, followed by barley and oats for grain at 200 and 100 acres, respectively.

Also tallied were 50 acres of lettuce, 44 acres of carrots and 25 acres of cabbage.

Eighty-three percent of the potatoes grown in Alaska in 1994 were grown in the Matanuska Valley.

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Paving Over a Farming Paradise

New planning laws are needed to curb Central Valley urbanization

California's Central Valley is at once the world's richest farm belt and one of America's fastest-growing new urban regions. Each year more than 20,000 acres of fertile ground are gobbled up by real estate development. From Bakersfield to Redding, suburbs are sprouting on land that once produced more milk, tomatoes, grapes, almonds, peaches, apricots, figs, pistachios and cantaloupes than any other part of the world. A recent report by Times staff writer Mark Arax points out the problems of this pattern: The time to change the state's urban planning laws has arrived.

Whether it takes place in Kern, Calaveras or Shasta counties, urban sprawl is no longer a local issue. Agriculture remains such a crucial part of California's economy that state government planners need to step in to slow housing growth that comes at the expense of orchards, vineyards and other agricultural production. Statute reform is needed to make it easier to preserve farmland and limit urbanization.

This task can be accomplished only through the combined efforts of the Legislature and the governor's office. Central Valley land speculators, city councils and county boards, in their eagerness for expansion, have paved over 12% of the valley's original cropland. If the trend

continues at the same pace, in half a lifetime the number of valley residents will triple to 16 million.

Unless the state makes a workable management plan, there will be more conversions for the entire nation which has spent billions transforming the valley from desert and marsh into an agricultural oasis that provides 25% of America's table food.

This urban development has a negative impact on city dwellers as well as farmers. New housing tracts and commercial enterprises cost much more in services (like sewers, streets, police and fire protection) than what they fetch in property and sales taxes. The environmental building has hurt the state's economy.

A bill out of the Legislature sponsored by Pete Wilson promises to curb the rampant urban sprawl. It is a good policy, but the state of managing all the state's resources and preserving the land. Unfortunately, the bill has little on the issue. It is time to act.

California as a whole should challenge itself to stabilize the Central Valley by the year 2010. To meet the test, our urban planners will have to provide the best information available on the trends and the consequences of this explosion in the heart of the state.

'Tis the Season to Fund Campaigns

Bill would curtail rock mining

Farm Bureau makes latest move to protect prime farmland

By ED MERRIMAN
Capital Press staff writer

SALEM — Oregon's largest farm organization plans to introduce legislation this month aimed at protecting prime farmland from urban growth boundary expansions and from gravel companies.

The Oregon Farm Bureau is proposing legislation to stop gravel companies from digging up some of the Willamette Valley's richest farmland to mine rocks used to make gravel for roads and other construction projects.

The bill would require the Oregon Department of Transportation to use gravel made from quarry rock, which comes from rock hillsides and other areas poorly suited for farming, instead of using alluvial rock, typically found under river bottomland.

Don Schellenberg, farm bureau lobbyist, said the legislation targets the Oregon Department of Transportation, which is the state's biggest user of gravel made from alluvial rock.

"We've tried every other approach to keep these gravel companies from digging up prime bot-

tomland farms to get their rock and nothing we've tried in the past has worked," Schellenberg said.

He worked with Department of Land Conservation and Development for more than a year to tighten land use rules aimed at limiting conversion of prime farmland to gravel pits, but rules adopted last fall left a loophole big enough to drive a dump truck through.

That rule simply says that exclusive farm land can't be converted to a gravel pit unless the property contains a "significant" amount of alluvial rock.

The trouble is, there's all kinds of such rock located under prime Willamette Valley farmland, Schellenberg said.

One reason that approach hasn't been effective is because Oregon's statewide land use planning Goal 5 specifically protects gravel mines as an allowed land use, even in exclusive farm use zones.

Schellenberg said it's ironic that a farmer can't get a permit to build a dwelling on his own farm because of DLCD restrictions on home building in EFU zones, but a gravel pit is perfectly fine.

The farm bureau's proposed legislation says that when selecting materials for construction, or

maintenance of state highways, "the department shall not select alluvial rock for use as a fill or any other application where dirt or crushed quarry rock would approximate the same result" regardless of the cost difference between the products.

In addition, the proposal directs the Transportation Department when contracting to purchase rock to provide incentives that will encourage providers of rock to obtain their supply from locations that do not disturb prime, unique, irrigated or non-irrigated Class I or Class II soil or irrigated Class III soils.

Schellenberg said the farm bureau also will propose legislation to eliminate land use rules requiring cities to identify a 20-year buildable inventory of land within their urban growth boundaries. The goal is to prevent urban growth boundary expansions from taking prime farmland out of production.

The legislation also stipulates that when cities appear to be running out of buildable land within their urban growth boundaries, the cities must find ways to increase housing densities on land within those boundaries, Schel-

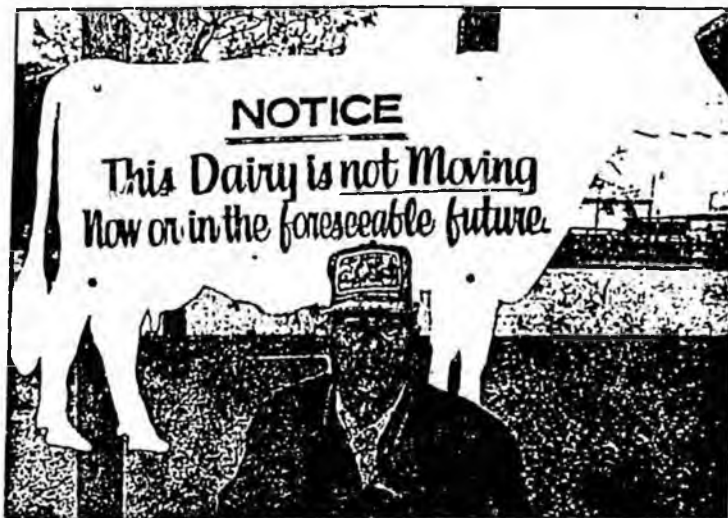
lenberg said.

It also limits expansion of urban growth boundaries to non-resource lands or marginal land poorly suited for agricultural production.

"We're not saying cities should never expand their urban growth boundaries, but if they do, stay off good land," Schellenberg said. "We ought to be directing our growth as much as possible to areas where they don't have the best farm-

The proposed legislation prohibits expansion of urban growth boundaries on high priority lands, including nonirrigated lands with Class I and Class II soils, irrigated land with Class I, II, III or IIII soils, or on land that if irrigated is capable of producing at least the average volume of crops of other irrigated farmland in the area.

There also are rules to protect Eastern Oregon wheat land from development. The rules stipulate that urban growth boundaries may not be expanded on soils capable of producing at least the average non-irrigated wheat yield for the county or on tracts that the county determines to be necessary to permit farm practices to be undertaken on adjacent or nearby lands, Schellenberg said.



Mark Henle/The Arizona Republic

Richard Dugan, a former mayor of Chandler, gives fair warning to anyone considering the purchase of a home in the nearby subdivision.

Dairy farmer refuses to yield to subdivisions

By Kathleen Inley
The Arizona Republic

On one side of the road, cows are placidly munching hay. Across the way, construction workers are furiously hoisting beams, pounding nails and hanging drywall as house after house goes up on what used to be fields.

Dairy meets development — it happens time after time, and the farmer pulls up stakes.

Not Richard Dugan.

Subdivisions are growing closer every day to his dairy

An acre an hour
The price of sprawl

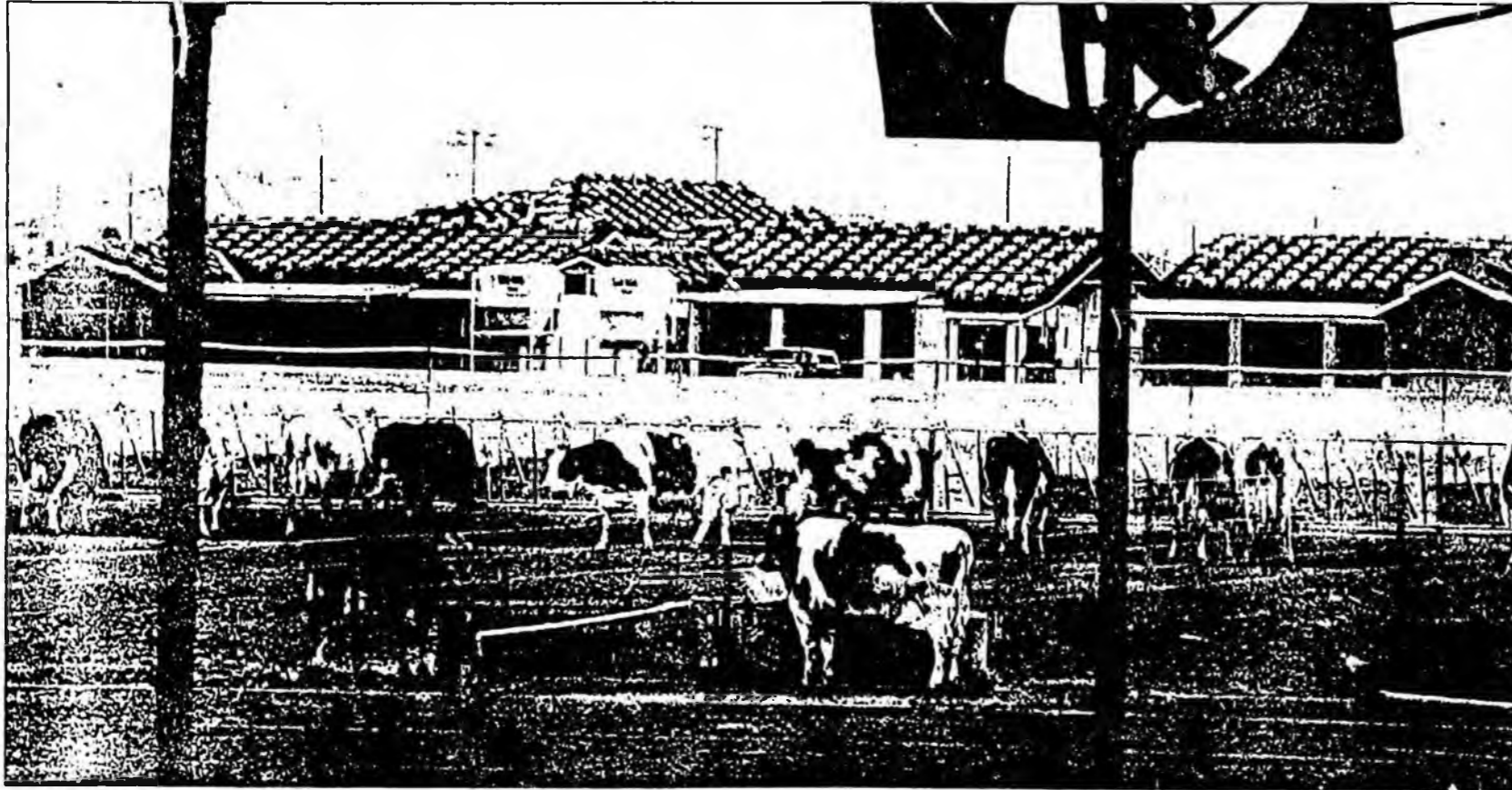
on Dobson Road in Chandler. The Motorola plant lies within sight of his herd.

But a sign warns anyone who might become his neighbor that this is a working farm: "Notice home buyers: Agricultural fragrance, insect pest and dust possible within 1 mile of dairy."

Dugan, 49, works his own 25-acre dairy and his retired father's 75-acre spread as one unit with 1,300 cows. His five brothers, who used to

— See DAIRY, page A6

Dairy farmer refuses to yield to subdivisions



Mark Henle/The Arizona Republic

Some of Richard Dugan's herd of 1,300 dairy cows go about their business with a subdivision looming in the background. The cows look harmless enough, but agents for the subdivision say they have killed some sales to potential home buyers. However, one neighbor points out that the dairy was there first.

— DAIRY, from page A1

have dairies on surrounding land, have all sold out and moved to Casa Grande or Maricopa. They all wanted to expand, and there just wasn't any room.

Why has Dugan stayed?

"The facility is still economically viable," he explained. And his 77-year-old father doesn't want to sell out.

Back in the 1980s, Chandler's rapid growth worried Dugan so much that he ran for City Council. He was mayor from 1988 to 1990. But the houses just kept going up, and the farmland kept going under.

"I couldn't come up with a solution," he said. "The compromise was to get as much open space as we can."

The pungent smell of the dairy drifts over to the neighborhood where Beth Stewart's family lives.

"I'm from Kansas," she said. "You're not going to get a complaint from me." And not from her sons, 6 and 4, who love seeing the cows.

Among her neighbors however, "everyone else complains," she

conceded.

The dairy was there first, her husband, John, pointed out indignantly.

"Did they not see the cows when they bought the house?" he asked.

Indeed, sales agents for the subdivision say some potential home buyers back off once they realize there's a dairy close by.

For those who wonder, Dugan has another sign: "Notice: This dairy is not moving now or in the foreseeable future."

His office at the farm has floor-to-ceiling shelves displaying a collection of miniature tractors and farm equipment.

A clock with the slogan "Any time is milk time" has cows instead of numbers on the quarter-hours.

Despite his bravado, Dugan realizes that time eventually will run out on the dairy.

He figures that the facility has another two decades left. But once it isn't economical, he said, "What are you going to do? You've got to move on."

About that time is when he expects his prediction for Chandler to come true: It will be a small town with no agriculture.