

SB

109

ALASKA STATE LEGISLATURE

Interim:

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Wasilla, Alaska 99654
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Session:

State Capitol
Juneau, Alaska 99801-1182
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SENATOR LYDA GREEN

SENATE DISTRICT N

SPONSOR STATEMENT SB109, Rights to Agricultural Land

SB109 is similar to legislation passed last year as SB162. Last session the reform measure passed by huge majorities, was vetoed by the Governor and then the Governor's veto was overridden. However, the override vote, according to Judge Larry Weeks of Juneau, came a day late.

This session SB109 has been heard in Senate Finance and was amended in an effort to accommodate some concerns of the Department of Natural Resources. While there is not total agreement on the bill with the Administration, we are working together to promote more freedom for farmers, encourage the creation and preservation of the family farm, and to allow private financing for agricultural land while maintaining a restriction for agricultural use.

The key provisions are:

- (1) The State of Alaska will be taken off the title to the land. This is absolutely essential if farmers with agricultural land are to have an opportunity to finance their operations with private financing.
- (2) Numerous regulations are repealed that provided for micro-management of private farms by the state. It is our understanding that the Department of Natural Resources has no objection to repealing this regulations.
- (3) An original agricultural parcel can now be subdivided into any number of parcels as long as they are no smaller than 40 acres. The subdivisions do not include the ability to build a home on the property. However, current law provides for a home site to go along with any subdivision of an original parcel as long as the parcel is at least 640 acres.

SB109 would allow an original parcel to be subdivided into no more than four parcels of at least 40 acres that could include home sites.

(4) For a subdivided parcel that includes a home site, is under 640 acres, and is conveyed to someone outside the owner's immediate family, there are two options. Option 1 provides an increased value fee of \$6,000 that is payable to the state. Option 2 allows the owner to do an appraisal and pay the difference in the increased value, if any, from agricultural land with a home site and agricultural land without a home site.

(5) Agricultural use would be protected by a perpetual covenant running with the land. Any citizen, municipality or the State could bring suit in civil court to enforce the covenant. However, a 90 day cooling off period is mandated by requiring that the complaint first be presented in writing to the local Soil and Water Conservation Board. This process should reduce or eliminate frivolous suits.

(6) A limited liability report is required to indemnify the State during the transfer of title.

(7) Existing requirements for a cadastral survey before the state can offer agricultural land are amended to allow the Commissioner of the Department of Natural Resources to waive that expensive process.

This legislation will remove unnecessary regulations, promote family farming, allow farmers the option of private financing, promote more offering of agricultural land, allow a limited number additional home sites on agricultural land and guarantee continued agricultural use of the land.

Pinkelman & McCollum
P.O. Box 336
Delta Jct., Alaska 99737

April 3, 1997

To: Senate & House Representatives

Re: Agriculture Titled Land

Dear Representatives of the 20th Legislature:

We are writing to petition the legislature to reconsider the passage of Senate Bill #109 sponsored by Lyda Green and House Bill #184 sponsored by Jeannette James.

We as farmers, land owners as well as business owners own fee simple property as well as a parcel of "Ag Rights" land.

We feel that when an individual placed a bid on any of the agricultural tracks they were fully aware and advised of any covenants and restrictions placed on "Ag" parcels being put up for State auction. Bidders placed respective bids reflecting the limited value placed on buying only the "Agriculture Rights" to State land. Land was purchased at low rates from \$50 -75 per acre versus similar "Fee Simple" farm ground with prices near \$400 per acre.

As you all are aware of, many of the original agriculture tracks that were sold by the State have undergone drastic restructuring from the original terms set forth at the time of purchase. Many farmers have benefited from the reduced interest rates as a result of this restructuring.

Furthermore, the State originally paid to have those farms cleared. Then the Federal Government sets up the 10 year CRP program which recently has been renewed, so many have turned "Ag Land" over to reap profits from this program. Now, we have our legislature going further to roll over all of that land to limited but yet "Fee Simple Title", without having to pay a Red Cent for the difference in land value. This bill is totally unfair to all other land owners in the State of Alaska.

Should this bill pass, what will be the repercussions on those of us who purchased "Ag Land" from an original owner, who can now come back and say the land he sold was undervalued, it is now legally worth more.

If any legislation should be made regarding agriculture lands, lets go from this day forward, not retroactive from August 15, 1976.

And furthermore, farmers may be limited with their borrowing abilities on this land, but it is our understanding, there are lending institutions who will lend up to \$50.00 per acre on "Ag Titled" land. And for greater autonomy let them be weaned from the government, and play by the rules of the ball game. They will still be able to make business decisions responsive to the economic factors of the marketplace without having to be freely given title to this land. Let's be fair to all.

Sincerely,

Russell A. Pinkelman

Jeannie Pinkelman

Cathie McCollum

Doug McCollum

Russ & Jeannie Pinkelman

Doug & Cathie McCollum

Fax: Adams, Donley, Duncan, Ellis, Green, Halford, Hoffman, Kelly, Leman, Lincoln, Mackie, Miller, Parnell, Pearce, Phillips, Sharp, Taylor, Torgerson, Ward, Wilken, Jay Kerttula.

Gov Jerry Kuntze

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Verson: SB 109
(S) Publish Date: 4-2-97

Revision Date: _____ Dept. Affected: Department of Law
Title: "An Act relating to land used for agricultural
purposes . . . annulling certain program regulations . . . BRU: Civil Division
Sponsor: Senator Green Component: General Legal Services
Requester: Senate Finance 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)

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)

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*
Division: Administrative Services Division
Approved by Commissioner: Bruce M. Botelho *Bruce M. Botelho*
Agency: Department of Law

Phone: 465-5370
Date: 3/19/97
Date: 3/19/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill 2
 Version: SB 109
 (S) Publish Date: 4-2-97

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 plat).

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

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Verson: SB 109
 (S) Publish Date: 4-2-97

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to land used for agricultural BRU: Agricultural Development
purposes and to state land classified for agricultural... 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 *Jay Kerttula* Phone: 745-7200
 Division: Agriculture Date: 20-Mar-97
 Approved by Commissioner: *Paul Canale* Date: 3/21/97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Verson: SB 109
 (S) Publish Date: 4-2-97

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY'98	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						
GRANTS, 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.

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).

FISCAL NOTE

No. 6
 Bill Version: CSSB 109 (FIN)
 (S) Publish Date: 4-4-97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to land used for agricultural
 purposes . . . annulling certain program regulations . . . BRU: Civil Division
 Sponsor: Senator Green Component: General Legal Services
 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 *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 4/3/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/3/97
 Agency: Department of Law

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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

BILL NO. CSSB 109 (FIN)

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

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SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT	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 (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 *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 4/3/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/3/97
 Agency: Department of Law

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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

BILL NO. CSSB109(FIN)

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)					
	FY98	FY99	FY00	FY01	FY02	FY03
OPERATING EXPENDITURES						
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
CHANGE IN REVENUES (1005)	90.0	108.0	126.0	144.0	162.0	180.0

FUND SOURCE	(Thousands of Dollars)					
	FY98	FY99	FY00	FY01	FY02	FY03
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

	FY98	FY99	FY00	FY01	FY02	FY03
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

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: *John Stewart* Date: 4-3-97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HCSCSSB109(FIN)

Revision Date: 21-Apr-97 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) Await Conc/Reced Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	31.8	105.4	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	42.0	112.2	28.6	34.6	40.8	47.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	60.0	66.0	72.6	79.9	87.8	96.6

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	42.0	112.2	28.6	34.6	40.8	47.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	42.0	112.2	28.6	34.6	40.8	47.0

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

POSITIONS

FULL-TIME	0.6	2.4	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 split between 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. Patentees would have the rest of the fiscal year to gather and file their documentation. In FY99, patentees would file their limited liability reports and other documentation of ownership. Assuming adequate documentation was supplied, 24 person-months' work (12 mos. each for NRO II and Admin Clerk II, \$86.4), would suffice to convey the remaining rights in the land estate without further adjudication. Total for conversion: \$18.5 FY98, \$86.4 FY99, grand total \$104.9.

Prepared by: Jane Angvik Phone: 269-8503
 Division: Land Date: 21-Apr-97
 Approved by Commissioner: [Signature] Date: 4-21-97
 Agency: Natural Resources

ANALYSIS (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 new housing construction rights at \$4,000 each (count is 15 instead of 20 because each original parcel included housing rights). New subdivisions are assumed to increase by one owner per year, drawing from the pool of 338 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 with housing rights; also excluded are some 20 parcels large enough to be subdivided without incurring any payment obligation.) Total revenue change +60.0 first year, increasing annually.