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# LEGAL SERVICES

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## MEMORANDUM

February 19, 2001

**SUBJECT:** CSSB 82(STA) (2001 Revisor's Bill)

**TO:** Senator Gene Therriault, Chair  
Senate State Affairs Committee  
Attn: Joe

**FROM:** Pamela L. Finley   
Revisor of Statutes

The following is a sectional analysis of CSSB 82(STA), the 2001 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

**Sections that delete, repeal, or update obsolete provisions:** Section 24 repeals provisions that have become obsolete through other legislative action .

**Sections that correct errors or oversights:** Sections 1 - 4, 6 - 9, 11 - 15, and 17 - 23 correct errors or oversights.

**Sections that improve the form or substance of the law:** Sections 5, 10, and 16 propose amendments to improve the form or substance of the statutory law of Alaska.

## SECTIONAL ANALYSIS

Section 1 corrects an erroneous cross-reference in AS 06.05.005(a)(3). The statute currently referenced (AS 06.05.345) concerns the articles of incorporation, whereas AS 06.05.344 addresses approvals of state banks.

Section 2 changes the definition of "minor" in AS 13.06.050(29) (the Uniform Probate Code) from those persons 19 years of age and older to those persons 18 years of age and older. The uniform act indicates that states adopting it should insert the age of majority

in the definition of "minor". When AS 13.06.050 was enacted in 1972, the age of majority was 19. However, the age of majority (established in AS 25.20.010) was changed in 1977 from 19 years to 18 years of age. At that time, the definition of "minor" in AS 13.06.050 should also have been amended but was not. This bill section makes that change.

Section 3 corrects an error in a spanned reference exempting aquatic farms and hatcheries from certain other statutes relating to fisheries. Chapter 145, SLA 1988 enacted AS 16.40.100 - 16.40.199, which authorize and regulate aquatic farms and hatcheries. That same act enacted AS 16.05.930(g), which exempted activities authorized by a permit under AS 16.40.100 or 16.40.120 from AS 16.05.330 - 16.05.720. (AS 16.05.330-16.05.430 concern sport fishing and hunting and AS 16.05.440 - 16.05.720 concern commercial fishing.) However, in another 1988 act, AS 16.05.720 was repealed and replaced by AS 16.05.722 and 16.05.723, which meant that the end of the spanned reference in AS 16.05.930(g) became incorrect. The 1993 revisor's bill (sec. 5, ch. 6, SLA 1993) corrected this error by substituting "AS 16.05.723" for "AS 16.05.720". Unfortunately, sec. 5, ch. 6, SLA 1993 also changed the beginning of the spanned reference from "AS 16.05.330" to "AS 16.05.440". In all likelihood, this error was caused by duplicating the amendment in sec. 3, ch. 6, SLA 1993, which amendment correctly began with "AS 16.05.440" and also changed "AS 16.05.720" to "AS 16.05.723". At any rate, the sectional analysis of the 1993 revisor's bill makes it clear that the only change intended was the change from "AS 16.05.720" to "AS 16.05.723". To return the text to the language as enacted, this bill section reinstates "AS 16.05.330" at the beginning of the spanned reference in AS 16.05.930(g). For reasons explained in the attached memo of George Utermohle, this amendment should not have any practical effect on fish and game licensing.

Section 4 corrects an error in ch. 67, SLA 1992 by substituting "fee paid by the client" for "fee paid the client" in AS 21.27.560(a). A fee paid the client would be an illegal rebate. This correction was requested by the Department of Law.

Section 5 expands a spanned reference in AS 21.42.500 so that more sections can be easily added to AS 21.42 in the future. It also has the effect of supplying a definition of "health care insurer" and "health care insurance plan" for AS 21.42.400, which was added last year.

Section 6 amends AS 21.54.160(4)(A) to give the correct term as used in federal law and to correct a typographical error in the reference to the federal citation.

Section 7 corrects a cross-reference to federal law in AS 21.56.050(d)(3). Currently the statute refers to a federal law (42 U.S.C. 300) that governs grants for family planning services. The federal law that defines and sets requirements for health maintenance organizations is 42 U.S.C. 300e and therefore AS 21.56.050(d)(3) is amended to reference 42 U.S.C. 300e. This amendment corrects an error in ch. 39, SLA 1993.

Section 8 amends AS 23.40.215(c) to conform to the change made to AS 23.40.215(b) by ch. 15, SLA 2000. Before the 2000 amendment, subsection (b) provided for submission to, and approval or disapproval by, the legislature of the monetary terms of a collective bargaining agreement subject to the Public Employees' Retirement Act. Subsection (c) exempted agreements between school districts or REAAs and their employees from the requirement of legislative approval. Chapter 15, SLA 2000 deleted the "approval" provision from subsection (b) and amended the submission provision. However, chapter 15, SLA 2000 did not amend subsection (c), which still exempts the agreements of school districts and REAAs from "approval by the legislature." Since subsection (b) no longer requires legislative approval, subsection (c) doesn't make much sense. Based on the assumption that subsection (c) was intended to exempt school districts and REAAs from subsection (b)'s submission and approval provisions, this bill section amends subsection (c) to refer to submission to the legislature rather than approval by the legislature.

Section 9 corrects a cross-reference in AS 24.45.041(a)(7). There is no definition of "spousal equivalent" in AS 39.50.030(g); the definition of "spousal equivalent" that applies to AS 39.50.030(g) is found in AS 39.50.200(a), and so the cross-reference is changed accordingly. This corrects an error in ch. 74, SLA 1998.

Section 10 changes "section" to "subsection" in AS 38.04.900(c) in order to make the language more accurate. The term "interested person" appears only in subsection (c).

Section 11 changes "section" to "subsection" in the last sentence of AS 38.05.810(i). The last sentence authorizes sales for less than appraised market value. Because the title of the law that enacted subsection (i)---ch. 97, SLA 1992---referred to port authorities rather than land disposals in general, the last sentence of subsection (i) could legally apply only to the port authority provisions of subsection (i). This amendment makes that clear by correcting the error in ch. 97, SLA 1992.

Section 12 amends AS 38.05.821(a) to give the full proper citation in a reference to a federal law.

Sections 13 and 14 correct an error in the Alaska Coordinate System of 1927. As originally enacted, AS 38.20.060(10) did not contain the "as" that these amendments delete. In ch. 152, SLA 1984, when AS 38.20.060(10) was amended and duplicate language was added as (b)(10), the "as" appeared, although it was not shown as being inserted as new language. These two bill sections correct that typographical error by deleting the "as" that was erroneously added in 1984.

Section 15 corrects an error in AS 38.35.120(a)(1) as amended by ch. 56, SLA 2000. Before amendment by ch. 56, AS 38.35.120(a)(1) consisted of three parts. First it required certain lessees to assume the duties of a common carrier; secondly it provided a limited exemption from the common carrier provision; and thirdly it required the lessee to refrain from unjust or unreasonable discrimination and to take the oil or natural gas

that the Regulatory Commission of Alaska shall find to be reasonable in the lessee's performance of its duties as a common carrier. Chapter 56 added another limited exemption from the common carrier provision, but it was inserted at the end, so that the prohibition against unreasonable discrimination as a common carrier ended up in the paragraph providing the exception from the common carrier provision. This bill section moves the language so that the two exceptions from the common carrier provision are next to each other.

Section 16 defines "commissioner" as the commissioner of natural resources and defines "director" as the director of the division of lands for the purposes of AS 38.95.075 and 38.95.080, which relate to trapping cabin permits. Although the division of lands is currently administering these statutes, the statutes themselves do not contain applicable definitions of the terms "commissioner" and "director". This bill section supplies those definitions.

Section 17 amends the last sentence of AS 40.15.010 so that the verb ("are") agrees with the subject ("streets, alleys, or thoroughfares"). The verb was correct in the 1953 enactment, but incorrect in the 1962 codification. The other changes are purely editorial.

Section 18 changes a reference to the "division of land and water management" to the "division of lands," which is the correct name under AS 38.05.005.

Section 19 corrects a typographical error in ch. 34, SLA 1990 in the definition of "riparian area" in AS 41.17 (commonly known as the Forest Practices Act). Without this amendment, a literal reading of the term "riparian" (which commonly means "pertaining to the bank of a river") would include the river itself as well as shores or banks of rivers that were not necessarily fish water bodies. The amendment in this bill section makes the definition consistent with other related provisions of the Forest Practices Act, especially AS 41.17.118 and 41.17.119. Although the error is found in the original Governor's bill, the references in the Governor's transmittal letter to protection of "fish streams" and "streamside areas" also suggest that "or" should have been "of". See 1989 House Journal 1476 (May 3, 1989).

Section 20 corrects a minor grammatical error in AS 43.40.100(4), which is the definition of "user" in the motor fuel tax statutes. The word "either" is removed because it should be used only when "one of two" is intended, and there are three possible ways of being a "user" under AS 43.40.100(4).

Section 21 corrects an inaccurate cross-reference in AS 44.81.245(9). The equitable permit owner's right to nominate a person to assume the loan is established by AS 44.81.250(c), not AS 44.81.245. This corrects an error in ch. 34, SLA 1996.

Section 22 corrects an error in a cross-reference in AS 44.85.320(a) (Alaska Municipal Bond Bank Authority) by changing "appointed under this section" to "appointed under AS 44.85.310". AS 44.85.310, not AS 44.85.320, authorizes appointment of a trustee.

This error occurred in a floor amendment to HB 75 (which became ch. 79, SLA 1975) in which a section was deleted and following sections renumbered, but internal references to sections were not conformed. In addition, paragraph (6) is amended so that it fits the structure of the introductory language.

Section 23 corrects an error in ch. 113, SLA 2000, last year's Uniform Commercial Code revision. The amendment removes a reference to "(c) of this section" from AS 45.29.702(b). There is no "(c) of this section". What was subsection (c) in the model act became a temporary law section---section 34, ch. 113, SLA 2000. (It provides that the Act does not affect actions, cases, or proceedings commenced before the effective date of the Act.) Section 25 makes this correction effective July 1, 2001 because that is the effective date of AS 45.29.702.

Section 24 repeals AS 08.20.180(b), which provides for four-year renewals of a chiropractor's license. This corrects an omission in ch. 94, SLA 1987, which amended AS 08.01.100(a) to require biennial renewals for licenses covered by AS 08.01. Chapter 94, SLA 1987 made conforming amendments in many statutes, but omitted AS 08.20.180(b). The regulation covering these licenses (12 AAC 02.150) specifies biennial renewals, so this repeal should not affect existing practice. This section also repeals AS 14.43.310(b)(2), AS 18.65.250, AS 39.50.200(b)(17), and AS 44.19.110 - 44.19.122, all of which relate to the Governor's Commission on the Administration of Justice. This commission was established as a conduit of federal money and an entity to administer local efforts under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. However, the underlying federal provisions were omitted in the 1984 general revision enacted in P.L. 98-473, 98 Stat. 2077, and therefore no longer exist. (See explanatory note following 42 U.S.C.S. 3711.) The Department of Law requested that AS 44.19.110 - 44.19.122 be repealed since the commission no longer exists. AS 18.65.250 is repealed because it authorizes receipt of money from the commission and neither the money nor the commission exists. AS 14.43.310(b)(2) is repealed because it establishes an advisory committee for awarding the Carroll L. "Butch" Swartz Memorial Scholarship, the advisory committee to consist of three members of the defunct commission. (Although the Department of Law indicated that the Carroll L. "Butch" Swartz Memorial Scholarship has not been funded, other references to that scholarship are left in the statutes since future funding is always possible; only the advisory committee is repealed.) A copy of the statutes to be repealed is attached.

Section 25 makes section 23 effective July 1, 2001, the effective date of AS 45.29.702.

Section 26 gives the rest of the act an immediate effective date.

**TEXT OF REPEALED STATUTES**

AS 08.20.180(b):

(b) License renewal fees are due every four years.

AS 14.43.310(b)(2):

(2) three members of the Governor's Commission on the Administration of Justice selected annually by the commission from among its membership, for the Carroll L. "Butch" Swartz memorial scholarship;

AS 18.65.250:

Sec. 18.65.250. Financial assistance.

(a) The Governor's Commission on the Administration of Justice has the authority to assist political subdivisions and police departments in meeting the costs involved by extending financial assistance for travel, per diem, tuition, and other costs.

(b) Only those political subdivisions and police departments complying with AS 18.65.130 - 18.65.290 are eligible for financial assistance authorized under AS 44.19.116. This subsection applies only to those funds made available for providing minimum police standards.

AS 39.50.200(b)(17):

(17) Governor's Commission on the Administration of Justice (AS 44.19.110);

AS 44.19.110:

Sec. 44.19.110. Establishment of the commission. The Governor's Commission on the Administration of Justice is established in the Office of the Governor.

AS 44.19.112:

Sec. 44.19.112. Membership of the commission. The commission is composed of 13 members, to include the following: the attorney general, the commissioner of public safety, the commissioner of health and social services, the chief justice of the supreme court, the public defender, one member from each house of the legislature, four other residents of the state chosen by the governor so as to give reasonable geographic and urban-rural balance, including representation from the major ethnic groups of the state, from units of local government and from other groups concerned with the administration of justice in the state, and two other residents of the state representing citizens and professional and community organizations related to delinquency prevention. Members serve at the pleasure of the governor.

AS 44.19.114:

Sec. 44.19.114. Compensation and per diem. Members of the commission receive no salary for their service on the commission but are entitled to per diem and travel expenses authorized by law for boards and commissions.

AS 44.19.116:

Sec. 44.19.116. Grants and other aid. The commission may apply for, receive and utilize grants, gifts, and other funds and aids for the execution of its programs. Grants, gifts, and other funds may be received from the federal government and from other public and private sources.

AS 44.19.118:

Sec. 44.19.118. Commission as state planning agency. The commission shall act as the state planning agency under the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

AS 44.19.120:

Sec. 44.19.120. Duties of state planning agency.

(a) As the state planning agency, the commission has the responsibility of coordinating and planning in Alaska, the federal, state, and local efforts under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(b) The commission is authorized to investigate state and local needs and seek funding for

(1) development of more effective crime prevention programs and techniques;

(2) development of programs to aid the courts in the field of criminal adjudication;

(3) development of programs to rehabilitate offenders and prevent recidivism.

(c) The commission shall assist the planning and coordination of criminal justice personnel in the Departments of Law, Health and Social Services, and Public Safety, the public defender's office, and other appropriate agencies in a manner which projects the necessary and advisable allocation, utilization, qualifications, and coordination of criminal justice personnel at the state and local level.

(d) In order to facilitate interagency communication and cooperation, the commission shall hold interagency conferences for the discussion and planning of law enforcement, crime prevention, criminal adjudication, and offender rehabilitation programs and personnel for the Departments of Law, Health and Social Services, and Public Safety, the public defender's office, and the court.

AS 44.19.122:

Sec. 44.19.122. Staffing.

(a) The attorney general may, with the approval of the governor, select a director for the execution of the program entrusted to the commission by AS 44.19.116 - 44.19.120.

(b) The director may employ personnel necessary to carry out functions assigned by this chapter. Notwithstanding any other provisions of law, personnel appointed under this section, with the exception of the director, are members of the classified service as set out in AS 39.25.100.

**MEMORANDUM**

November 21, 2000

**SUBJECT:** Aquatic Farming Triennial License  
**TO:** Pamela Finley  
Revisor of Statutes  
**FROM:** George Utermohle  
Legislative Counsel

You have asked whether a person who operates an aquatic farm or hatchery under AS 16.40.100 - 16.40.199 is subject to the aquatic farming triennial license under AS 16.05.340(a)(14).

The answer to your question appears to be no.

A person may not operate an aquatic farm or hatchery for shellfish or aquatic plants or obtain stock for an aquatic farm or hatchery without first obtaining the appropriate permit issued under AS 16.40.100 or 16.40.120, respectively, by the commissioner of fish and game.

AS 16.05.340(a)(14) establishes an aquatic farming triennial license.<sup>1</sup> The fee for the license is \$400. On its face, the triennial aquatic farming license seems applicable to anyone engaged in aquatic farming. However, there is no statutory requirement that a person who has an aquatic farm or hatchery permit under AS 16.40.100 - 16.40.199 must obtain the aquatic farming triennial license.

AS 16.05.340(a) establishes numerous licenses, permits, and tags, and sets out fees for those licenses, permits, and tags. Except for a few notable exceptions<sup>2</sup>, AS 16.05.340(a) does not impose a requirement that a person must obtain any of those licenses, tags, or permits. There is no provision in AS 16.05.340(a) that requires a person to obtain the aquatic farming triennial license. Unless there is a separate requirement for an aquatic farming triennial license outside of AS 16.05.340(a), a person should not be required to obtain the license.

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<sup>1</sup> AS 16.05.340(a)(14) states:  
(14) Aquatic farming triennial license..... 400

<sup>2</sup> AS 16.05.340(a) does contain requirements that a person must obtain big game tags, waterfowl conservation tags, and anadromous king salmon tags before taking certain big game, waterfowl, and anadromous king salmon.

Under AS 16.05.330(a)(3)<sup>3</sup> a person who is engaged in the farming of fish, fur, or game must have the appropriate license in the person's actual possession, unless an exemption is permitted under AS 16.05. This provision would apparently require a person who operates an aquatic farm for purposes of farming fish to have the appropriate licenses or tags. The terms "aquatic farming" and "fish farming" are largely synonymous in referring to the cultivation of aquatic life for human uses, except that "aquatic farming" is probably broader in that it may encompass farming of aquatic plants in addition to farming of fish. Absent a more specific provision in statute, the requirement that a person must possess a fish farming license in order to engage in fish farming is probably satisfied by obtaining an aquatic farming triennial license.

If it were not for the definition of "fish or game farming" under AS 16.05.940(15)<sup>4</sup>, a person who operates an aquatic farm or hatchery for shellfish would probably have to obtain the aquatic farming triennial license in order to satisfy the requirement of AS 16.05.330(a)(3). However, for purposes of AS 16.05.330(a), "fish" does not include shellfish as defined under AS 16.40.199. Thus a person who operates an aquatic farm or hatchery for shellfish is not subject to the license requirement of AS 16.05.330 and is not required to obtain a separate license, such as the aquatic farming triennial license under AS 16.05.340(a)(14), in order to engage in aquatic farming of shellfish.

Similarly, there is apparently no requirement that an aquatic farmer engaged in farming aquatic plants is required to obtain the aquatic farming triennial license. The requirement under AS 16.05.330(a)(3) that a person engaged in fish farming must possess the appropriate license does not apply because fish farming does not include farming of aquatic plants.

AS 16.05.330(a) apparently applies only to a fish farmer engaged in the farming of finfish (i.e., fish other than shellfish as defined under AS 16.40.199). A finfish farmer

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<sup>3</sup> AS 16.05.330(a)(3) states:

(a) Except as otherwise permitted in this chapter, without having the appropriate license or tag in actual possession a person may not engage in

. . .

(3) the farming of fish, fur, or game; or

. . .

<sup>4</sup> AS 16.05.940(15) states (emphasis added):

(15) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; **in this paragraph, "fish" does not include shellfish, as defined in AS 16.40.199;**

could obtain the aquatic farming triennial license under AS 16.05.340(a)(14) in order to satisfy the licensing requirement imposed by AS 16.05.330(a)(3).

In 1988, when the legislature authorized aquatic farming under AS 16.40, the legislature took steps to assure that persons engaged in aquatic farming were not subject to licensing under AS 16.05.330(a) or 16.05.340(a). First, the legislature granted an exemption from several provisions of AS 16.05 to persons engaged in aquatic farming under AS 16.40. Among the statutes made inapplicable to aquatic farms authorized under AS 16.40 were AS 16.05.330 and 16.05.340. See, sec. 8, ch. 145, SLA 1988 which enacted AS 16.05.930(g).<sup>5</sup> Second, the legislature amended the definition of "fish or game farming" under AS 16.05.940 to exclude shellfish as defined under AS 16.40.199. See, sec. 9, ch. 145, SLA 1988.

The only reason that there is now any question whether an aquatic farmer must obtain an aquatic farming triennial license is due to actions taken by the legislature in 1990 and 1993. The first legislative action amended AS 16.05.340(a)(14) to convert the fish farming biennial license into the aquatic farming triennial license. See, sec. 10, ch. 211, SLA 1990. When AS 16.05.340(a)(14) was amended in 1990, aquatic farms under AS 16.40 were exempt from the renamed license because of the exemption granted to aquatic farms and hatcheries by AS 16.05.930(g).<sup>6</sup> See, footnote 5, for the 1990 text of AS 16.05.930(g). The aquatic farming triennial license under AS 16.05.340(a)(14) and the fish farming license requirement under AS 16.05.330(a)(3) were two provisions expressly made inapplicable to persons who held aquatic farm or hatchery permits under AS 16.40. Also in 1990, the definition of "fish or game farming" (applicable to AS 16.05) excluded shellfish from the definition of "fish" and the fish farming licenses requirement under AS 16.05.330(a)(3) was inapplicable to farming of aquatic plants.

If the legislature had intended the new aquatic farming triennial license to apply to persons who held aquatic farm and hatchery permits under AS 16.40 in 1990, the legislature would have to (1) amend the exemption granted to aquatic farms under AS 16.05.930(g), (2) amend the definition of "fish or game farming" under AS 16.05.940(15) to include shellfish as defined under AS 16.40.199, and (3) amend the

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<sup>5</sup> In 1990, AS 16.05.930(g) stated:

(g) AS 16.05.330 - 16.05.720 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

<sup>6</sup> The amendment of the biennial fish farming license into the triennial aquatic farming license in 1990 is a virtual nullity. At that time the triennial aquatic license was not applicable to aquatic farming of shellfish and aquatic plants due to AS 16.05.930(g) and other provisions. Also, the license was not applicable to aquatic farming of finfish because earlier during that session of the legislature, the legislature had enacted a permanent ban on finfish farming. AS 16.40.210; Ch. 91, SLA 1990.

licensing requirement under AS 16.05.330(a)(3) to include aquatic plants. The legislature did none of these things, thus I must conclude that in 1990 the aquatic farming triennial license was not intended to apply to aquatic farms and hatcheries subject to AS 16.40.

The second action taken by the legislature complicates the issue of whether operators of aquatic farms and hatcheries must obtain an aquatic farming triennial license but does not change my conclusion. In 1993, as part of the Revisor's Bill for that year, the legislature adopted an amendment to AS 16.05.930(g) that had the effect of eliminating the exemption from AS 16.05.330 - 16.05.430 originally granted to aquatic farmers in 1988.<sup>7</sup> Sec. 5, ch. 6, SLA 1993. The amendment made aquatic farmers subject to applicable provisions of AS 16.05.330 - 16.05.430. However, as discussed above, there are no provisions of AS 16.05.330 - 16.05.430 that make the fish farming requirement of AS 16.05.330(a)(3) or the aquatic farming triennial license under AS 16.05.340(a)(14) applicable to aquatic farms and hatcheries under AS 16.40. More than the elimination of the exemption from AS 16.05.330 - 16.05.430 is necessary to subject aquatic farms and hatcheries to the aquatic farming triennial license. AS 16.05.330(a) and 16.05.940(15) would also have to be amended in the manner described above.<sup>8</sup> The legislature has not made these additional changes.

**It is my conclusion that an aquatic farming activity authorized by a permit issued under AS 16.40 is not subject to the aquatic farming triennial license and that a**

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<sup>7</sup> AS 16.05.930(g) currently reads:

(g) AS 16.05.440 - 16.05.723 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

<sup>8</sup> There is a possibility that the elimination of the exemption from AS 16.05.330 - 16.05.430 that was originally contained in AS 16.05.930(g) may have been a mistake. First of all, the Revisor's Bill is intended to cure technical errors and oversights in the statutes that cannot be fixed editorially and require legislative action to fix. The Revisor's Bill is not intended to address policy issues such as whether aquatic farms should be exempt from the licensing provisions of AS 16.05.330 - 16.05.430. The Sectional Analysis of the bill prepared by the Revisor of Statutes stated that AS 16.05.930(g) was amended to "correct internal references that should have been changed when AS 16.05.720 was repealed and AS 16.05.722 and 16.05.723 were added by ch. 46, SLA 1988." House Journal Supplement, No. 4, Alaska State Legislature, February 17, 1993, page 2. This explanation for the change to AS 16.05.930(g) does not make any mention of making a substantive change to the exemption granted by that subsection. Instead it refers only to a technical change made necessary by a wholly unrelated amendment to provisions related to penalties for commercial fishing violations. Thus the elimination of the exemption from the licensing provisions of AS 16.05.330 - 16.05.430 that was granted to aquatic farms and hatcheries under AS 16.05.930(g) may have been an unintended typographical or editorial error.

Senator Gene Therriault, Chair  
February 19, 2001  
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**person cannot be required to obtain an aquatic farming triennial license for an activity covered by a permit issued under AS 16.40.100 - 16.40.199.**

It may be useful to amend AS 16.05.930(g) to provide that AS 16.05.330 - 16.05.430 do not apply to activities authorized under AS 16.40.100 - 16.40.199 so that in the future the exemption is clear without having to resort to interpretation of several different statutes to determine whether aquatic farms and hatcheries under AS 16.40 are required to obtain the aquatic farming triennial license.

If I may be of further assistance, please advise.

PF:glc  
01-164.glc

22-LS0133F  
Finley  
2/19/01

**CS FOR SENATE BILL NO. 82(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act making corrective amendments to the Alaska Statutes as recommended by the**  
2 **revisor of statutes; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 06.05.005(a)(3) is amended to read:

5 (3) review and approve or disapprove applications for new state banks  
6 under AS 06.05.344 [AS 06.05.345], new bank branches under AS 06.05.399, and  
7 international or interstate branch banks under AS 06.05.555;

8 **\* Sec. 2.** AS 13.06.050(29) is amended to read:

9 (29) "minor" means a person who is under 18 [19] years of age;

10 **\* Sec. 3.** AS 16.05.930(g) is amended to read:

11 (g) AS 16.05.330 - 16.05.723 [AS 16.05.440 - 16.05.723] do not apply to an  
12 activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person  
13 or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or  
14 16.40.120.

1 \* **Sec. 4.** AS 21.27.560(a) is amended to read:

2 (a) A client who appoints an insurance producer as its broker in this state or  
3 relative to a subject resident, located, or to be performed in this state shall execute a  
4 written contract that specifically sets out the duties, functions, powers, authority, and  
5 compensation of the insurance producer, if the broker is compensated by a fee paid by  
6 the client or by a combination of a fee paid by a client and a commission paid by an  
7 insurer with which coverage has been placed. The written contract shall be kept in the  
8 permanent records of the insurance producer and be open to inspection by the director.

9 \* **Sec. 5.** AS 21.42.500 is amended to read:

10 **Sec. 21.42.500. Definitions.** In AS 21.42.345 - 21.42.500 [AS 21.42.345 -  
11 21.42.395],

12 (1) "copayment" means the portion of medical care expenses in excess  
13 of the deductible to be paid by a covered individual;

14 (2) "deductible" means the portion of medical care expenses for which  
15 a covered individual must pay before benefits become payable;

16 (3) "excepted benefits" has the meaning given in AS 21.54.160;

17 (4) "fraternal benefit society" has the meaning given in AS 21.84.900;

18 (5) "health care insurance plan" has the meaning given in  
19 AS 21.54.500;

20 (6) "health care insurer" has the meaning given in AS 21.54.500;

21 (7) "placed for adoption" has the meaning given in AS 21.54.500.

22 \* **Sec. 6.** AS 21.54.160(4)(A) is amended to read:

23 (A) Medicare supplemental policy [SUPPLEMENT HEALTH  
24 INSURANCE] as defined in 42 U.S.C. 1395ss(g)(1) [42 U.S.C. 1345ss(g)(1)]  
25 (Social Security Act);

26 \* **Sec. 7.** AS 21.56.050(d)(3) is amended to read:

27 (3) subject to the approval of the director, the board shall make an  
28 adjustment to the assessment formula for reinsuring carriers that are approved health  
29 maintenance organizations that are federally qualified under 42 U.S.C. 300e [42  
30 U.S.C. 300], to the extent, if any, that restrictions are imposed on those organizations  
31 that are not imposed on other small employer insurers;

1 \* **Sec. 8.** AS 23.40.215(c) is amended to read:

2 (c) Notwithstanding (b) of this section, the monetary terms of an agreement  
3 entered into between a school district or regional educational attendance area and its  
4 employees are not required to be submitted to [SUBJECT TO APPROVAL BY] the  
5 legislature.

6 \* **Sec. 9.** AS 24.45.041(b)(7) is amended to read:

7 (7) the identification of a legislator, legislative employee, or public  
8 official to whom the lobbyist is married or who is the spousal equivalent of the  
9 lobbyist; in this paragraph, "spousal equivalent" has the meaning given in  
10 AS 39.50.200(a) [AS 39.50.030(g)].

11 \* **Sec. 10.** AS 38.04.900(c) is amended to read:

12 (c) If the regulations adopted by the commissioner under (a) of this section fail  
13 to provide for a process by which decisions of the commission may be appealed, an  
14 interested person may petition for reconsideration of a decision. The petition shall  
15 contain the information required to be submitted by AS 44.62.220 and shall be acted  
16 upon by the commissioner in the manner provided in AS 44.62.230. For purposes of  
17 this subsection [SECTION], a municipality is an interested person with respect to its  
18 interests in land defined in (b) of this section.

19 \* **Sec. 11.** AS 38.05.810(i) is amended to read:

20 (i) Subject to AS 38.05.820, the commissioner may lease undeveloped state  
21 land, including tideland, to a port authority established under AS 29.35.600 -  
22 29.35.730, if the state land is within the physical boundaries of the authority and is  
23 needed by the authority for purposes provided in AS 29.35.600 - 29.35.730. The  
24 commissioner may lease developed state land, including tideland, to a port authority  
25 established under AS 29.35.600 - 29.35.730 only if, (1) the developed state land is  
26 within the physical boundaries of the authority; (2) the developed state land is needed  
27 by the authority for purposes provided in AS 29.35.600 - 29.35.730; and (3) the  
28 legislature approves the lease. A lease of state land under this subsection [SECTION]  
29 may be for less than the appraised market value.

30 \* **Sec. 12.** AS 38.05.821(a) is amended to read:

31 (a) Notwithstanding any other provision of law, a home rule or general law

1 municipality that [WHICH] accepts by conveyance or other disposition from the state  
2 a public recreation area facility developed under the terms of P.L. 84-507, 70 Stat.  
3 130 [P.L. 507 (70 STAT. 130)], upon application, shall receive by conveyance from  
4 the director all land owned by the state seaward of the public recreation area facility  
5 that [WHICH] is between the mean high tide line and the mean low tide line. The  
6 director may adopt necessary regulations providing for the conveyance of land under  
7 this section.

8 \* Sec. 13. AS 38.20.060(a)(10) is amended to read:

9 (10) Zone 10 is a Lambert conformal conic projection of the Clarke  
10 spheroid of 1866, having standard parallels at north latitude 51 degrees 50 minutes  
11 [AS] and 53 degrees 50 minutes, along which parallels the scale shall be exact. The  
12 origin of coordinates is at the intersection of the meridian 176 degrees 00 minutes west  
13 of Greenwich and the parallel 51 degrees 00 minutes north latitude. This origin is  
14 given the coordinates:  $x = 3,000,000$  feet and  $y = 0$  feet.

15 \* Sec. 14. AS 38.20.060(b)(10) is amended to read:

16 (10) Zone 10 is a Lambert conformal conic projection of the World  
17 Reference Ellipsoid, having standard parallels at north latitude 51 degrees 50 minutes  
18 [AS] and 53 degrees 50 minutes, along which parallels the scale shall be exact. The  
19 origin of coordinates is at the intersection of the meridian 176 degrees 00 minutes west  
20 of Greenwich and the parallel 51 degrees 00 minutes north latitude. This origin is  
21 given the coordinates:  $x = 1,000,000$  meters and  $y = 0$  meters.

22 \* Sec. 15. AS 38.35.120(a)(1) is amended to read:

23 (1) it assumes the status of and will perform all of its functions  
24 undertaken under the lease as a common carrier and will accept, convey, and transport  
25 without discrimination crude oil or natural gas, depending on the kind of pipeline  
26 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
27 subject to the lease throughout its route both on state land obtained under the lease and  
28 on the other land; it will accept, convey, and transport crude oil or natural gas  
29 without unjust or unreasonable discrimination in favor of one producer or  
30 person, including itself, as against another but will take the crude oil or natural  
31 gas, depending on the kind of pipeline involved, delivered or offered, without

1 unreasonable discrimination, that the Regulatory Commission of Alaska shall,  
2 after a full hearing with due notice to the interested parties and a proper finding  
3 of facts, determine to be reasonable in the performance of its duties as a common  
4 carrier; however, a lessee that owns or operates a natural gas pipeline

5 (A) subject to regulation either under the Natural Gas Act (15  
6 U.S.C. 717 et seq.) of the United States or by the state or political subdivisions  
7 with respect to rates and charges for the sale of natural gas, is, to the extent of  
8 that regulation, exempt from the common carrier requirement in this  
9 paragraph; [IT WILL ACCEPT, CONVEY, AND TRANSPORT CRUDE OIL  
10 OR NATURAL GAS WITHOUT UNJUST OR UNREASONABLE  
11 DISCRIMINATION IN FAVOR OF ONE PRODUCER OR PERSON,  
12 INCLUDING ITSELF, AS AGAINST ANOTHER BUT WILL TAKE THE  
13 CRUDE OIL OR NATURAL GAS, DEPENDING ON THE KIND OF  
14 PIPELINE INVOLVED, DELIVERED OR OFFERED, WITHOUT  
15 UNREASONABLE DISCRIMINATION, THAT THE REGULATORY  
16 COMMISSION OF ALASKA SHALL, AFTER A FULL HEARING WITH  
17 DUE NOTICE TO THE INTERESTED PARTIES AND A PROPER  
18 FINDING OF FACTS, DETERMINE TO BE REASONABLE IN THE  
19 PERFORMANCE OF ITS DUTIES AS A COMMON CARRIER;]

20 (B) that is a North Slope natural gas pipeline (i) is required to  
21 operate as a common carrier only with respect to the intrastate transportation of  
22 North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not  
23 required to operate as a common carrier as to a liquefied natural gas facility or  
24 a marine terminal facility associated with the pipeline, and is not otherwise  
25 required to perform its functions under the lease as a common carrier; for  
26 purposes of this subparagraph, "North Slope natural gas pipeline" means all the  
27 facilities of a total system of pipe, whether owned or operated under a contract,  
28 agreement, or lease, used by a carrier for transportation of North Slope natural  
29 gas, as defined by AS 42.06.630, for delivery, for storage, or for further  
30 transportation, and including all pipe, pump, or compressor stations, station  
31 equipment, tanks, valves, access roads, bridges, airfields, terminals and

1 terminal facilities, including docks and tanker loading facilities, operations  
2 control centers for both the upstream part of the pipeline and the terminal,  
3 tanker ballast treatment facilities, fire protection system, communication  
4 system, and all other facilities used or necessary for an integral line of pipe,  
5 taken as a whole, to carry out transportation, including an extension or  
6 enlargement of the line;

7 \* **Sec. 16.** AS 38.95 is amended by adding a new section to article 3 to read:

8 **Sec. 38.95.085. Definitions for AS 38.95.075 - 38.95.085.** In AS 38.95.075 -  
9 38.95.085,

10 (1) "commissioner" means the commissioner of natural resources;

11 (2) "director" means the director of the division of lands.

12 \* **Sec. 17.** AS 40.15.050 is amended to read:

13 **Sec. 40.15.050. Plats legalized.** All plats filed or recorded with the recorder  
14 before March 30, 1953, whether executed and acknowledged in accordance with this  
15 chapter or not, are validated and all streets, alleys, or public thoroughfares shown on  
16 these plats are considered to be dedicated to public use. The last plat of the area of  
17 record on March 30, 1953, is the official plat of the area as of that date, and the streets,  
18 alleys, or thoroughfares shown on it are considered to be dedicated to public use. The  
19 streets, alleys, or thoroughfares shown on an earlier plat of the same area, or any part  
20 of it, that are [WHICH IS] in conflict with those shown on the official plat are  
21 considered to be abandoned and vacated.

22 \* **Sec. 18.** AS 41.10.100(b) is amended to read:

23 (b) The board shall also

24 (1) receive and review reports concerning the use of soil resources of  
25 the state;

26 (2) hold public hearings and meetings to determine whether land in the  
27 state is being used in a manner consistent with sound soil and water conservation  
28 practices;

29 (3) make recommendations for specific action necessary to provide for  
30 the effective and orderly development of agricultural, forest, and grazing land in the  
31 state;

1 (4) review an appeal by an applicant or lessee from a decision of the  
2 director of the division of lands [LAND AND WATER MANAGEMENT]  
3 concerning a sale or lease of state agricultural or grazing land and submit its  
4 recommendations to the commissioner or hearing officer;

5 (5) act in an advisory capacity to the soil and water conservation  
6 districts in the state;

7 (6) act in an advisory capacity to the commissioner and director of the  
8 division of agriculture in the review of farm conservation plans for all state  
9 agricultural land sales in the state.

10 \* Sec. 19. AS 41.17.950(13) is amended to read:

11 (13) "riparian area" means

12 (A) the areas specified in AS 41.17.116(a) on private land in  
13 the coastal forest of spruce or hemlock;

14 (B) the areas specified in regulations adopted by the  
15 commissioner under AS 41.17.116(b) on private land outside the coastal forest  
16 of spruce or hemlock;

17 (C) the area 100 feet from the shore or bank of [OR] an  
18 anadromous or high value resident fish water body on state land managed by  
19 the department and on other public land;

20 \* Sec. 20. AS 43.40.100(4) is amended to read:

21 (4) "user" means a person consuming or using motor fuel, who  
22 [EITHER]

23 (A) purchases the fuel out of the state and ships it into the state  
24 for personal use in the state;

25 (B) manufactures the fuel in the state; or

26 (C) purchases or receives fuel in the state that is not taxed at  
27 the time of purchase or receipt or is taxed at a rate that is less than the rate  
28 prescribed by AS 43.40.010.

29 \* Sec. 21. AS 44.81.245(9) is amended to read:

30 (9) a statement of the right of the equitable owner to nominate a person  
31 to assume the loan under AS 44.81.250(c) [AS 44.81.245];

1 \* **Sec. 22.** AS 44.85.320(a) is amended to read:

2 (a) A trustee appointed under AS 44.85.310 [THIS SECTION] may, and shall  
3 in the trustee's name, upon written request of the holders of 25 percent [PER CENT]  
4 in principal amount of the outstanding notes or bonds,

5 (1) by civil action enforce all rights of the noteholders or bondholders,  
6 including the right to require the bond bank authority to collect rates, charges, and  
7 other fees and to collect interest and amortization payments on municipal bonds and  
8 notes held by it adequate to carry out an agreement as to, or pledge of, the rates,  
9 charges, and other fees and of the interest and amortization payments, and to require  
10 the bond bank authority to carry out any other agreements with the holders of the notes  
11 or bonds and to perform its duties under this chapter;

12 (2) bring a civil action upon the notes or bonds;

13 (3) by civil action require the bond bank authority to account as if it  
14 were the trustee of an express trust for the holders of the notes or bonds;

15 (4) by civil action enjoin anything that may be unlawful or in violation  
16 of the rights of the holders of the notes or bonds;

17 (5) declare all the notes or bonds due and payable, and if all defaults  
18 are made good, then with the consent of the holders of 25 percent [PER CENT] of the  
19 principal amount of the outstanding notes or bonds, annul the declaration and its  
20 consequences;

21 (6) [THE TRUSTEE,] in addition to the foregoing, exercise [HAS] all  
22 the powers necessary for the exercise of functions specifically set out or incident to the  
23 general representation of bondholders or noteholders in the enforcement and  
24 protection of their rights.

25 \* **Sec. 23.** AS 45.29.702(b) is amended to read:

26 (b) Except as otherwise provided in [(c) OF THIS SECTION AND]  
27 AS 45.29.703 - 45.29.709,

28 (1) transactions and liens that were not governed by former AS 45.09,  
29 were validly entered into or created before July 1, 2001, and would be subject to this  
30 chapter if they had been entered into or created on or after July 1, 2001, and the rights,  
31 duties, and interests flowing from those transactions and liens remain valid on and

1 after July 1, 2001; and

2 (2) the transactions and liens may be terminated, completed,  
3 consummated, and enforced as required or permitted under this chapter or by the law  
4 that otherwise would apply if this chapter had not taken effect.

5 \* **Sec. 24.** AS 08.20.180(b); AS 14.43.310(b)(2); AS 18.65.250; AS 39.50.200(b)(17);  
6 AS 44.19.110, 44.19.112, 44.19.114, 44.19.116, 44.19.118, 44.19.120, and 44.19.122 are  
7 repealed.

8 \* **Sec. 25.** Section 23 of this Act takes effect July 1, 2001.

9 \* **Sec. 26.** Except as provided in sec. 25 of this Act, this Act takes effect immediately under  
10 AS 01.10.070(c).

AMENDMENT

TO: SB 82

1 Page 7, following line 28:

2 Insert a new bill section to read:

3 **\*\* Sec. 21.** AS 44.81.245(9) is amended to read:

4 (9) a statement of the right of the equitable owner to nominate a person  
5 to assume the loan under AS 44.81.250(c) [AS 44.81.245];"

6

7 Renumber the following bill sections accordingly.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 16, 2001

**SUBJECT:** Proposed amendment to SB 82 (2001 Revisor's Bill) (Work Order No. 22-LS0133\C.2)

**TO:** Senator Gene Therriault, Chair  
Senate State Affairs Committee

**FROM:** Pamela Finley *PF*  
Revisor of Statutes

Enclosed is a second amendment to SB 82, which you have very kindly scheduled for a hearing on February 20. (The first amendment was included with my February 12 memo). This amendment corrects a recently discovered error in ch. 113, SLA 2000, last year's Uniform Commercial Code revision. The amendment removes a reference to "(c) of this section" from AS 45.29.702(b). There is no "(c) of this section". What was subsection (c) in the model act became a temporary law section---section 34, ch. 113, SLA 2000. (It provides that the Act does not affect actions, cases, or proceedings commenced before the effective date of the Act.) This correction is made effective July 1, 2001 because that is the effective date of AS 45.29.702.

I would appreciate it if you could add this amendment to the packet for the bill. Please give me a call if you have any questions. And, thank you for scheduling the hearing so quickly.

PF:glc  
01-151.glc

Enclosure

AMENDMENT

OFFERED IN THE SENATE

TO: SB 82

1 Page 8, following line 21:

2 Insert a new bill section to read:

3 **\* Sec. 22.** AS 45.29.702(b) is amended to read:

4 (b) Except as otherwise provided in [(c) OF THIS SECTION AND]  
5 AS 45.29.703 - 45.29.709,

6 (1) transactions and liens that were not governed by former AS 45.09,  
7 were validly entered into or created before July 1, 2001, and would be subject to this  
8 chapter if they had been entered into or created on or after July 1, 2001, and the rights,  
9 duties, and interests flowing from those transactions and liens remain valid on and  
10 after July 1, 2001; and

11 (2) the transactions and liens may be terminated, completed,  
12 consummated, and enforced as required or permitted under this chapter or by the law  
13 that otherwise would apply if this chapter had not taken effect."  
14

15 Renumber the following bill sections accordingly.

16

17 Page 8, following line 24:

18 Insert a new bill section to read:

19 **\*\* Sec. 24.** Section 22 of this Act takes effect July 1, 2001."  
20

21 Renumber the following bill section accordingly.

22

23 Page 8, line 25:

24 Delete "this"

1        Insert "Except as provided in sec. 24, this"

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## MEMORANDUM

February 12, 2001

**SUBJECT:** SB 82 (2001 Revisor's Bill)

**TO:** Senator Gene Therriault, Chair  
Senate State Affairs Committee

**FROM:** Pamela Finley *PF*  
Revisor of Statutes

Enclosed is SB 82 (the 2001 Revisor's Bill), a sectional analysis and a proposed amendment. I would appreciate it if you would schedule a hearing on the bill as soon as possible. If you have any questions about this, please do not hesitate to call me.

PF:glc  
01-126.glc

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 19, 2001

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

The Honorable Gene Therriault, Chair  
Senate State Affairs Committee  
Capitol Building, Room 121  
Juneau, AK 99801

Re: SB 82 (2001 Revisor's Bill)

Dear Senator Therriault:

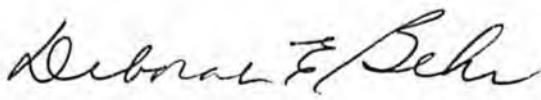
We appreciate the opportunity to provide comments on SB 82 (2001 revisor's bill).

We believe that the bill makes important technical improvements to Alaska law. We have detected no technical problems with the bill.

If you need more information, please let me know.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Deborah E. Behr  
Assistant Attorney General

DEB:jf

cc: Shari Kochman, Deputy Legislative Director, Office of the Governor  
Chrystal Smith, Legislative Contact, Dept. of Law  
Pam Finley, Revisor of Statutes, Legislative Affairs Agency

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## MEMORANDUM

February 12, 2001

**SUBJECT:** SB 82 (2001 Revisor's Bill)

**TO:** Senator Gene Therriault, Chair  
Senate State Affairs Committee

**FROM:** Pamela L. Finley *(PLF)*  
Revisor of Statutes

The following is a sectional analysis of SB 82 the 2001 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

**Sections that delete, repeal, or update obsolete provisions:** Section 22 repeals provisions that have become obsolete through other legislative action .

**Sections that correct errors or oversights:** Sections 1 - 4, 6 - 9, 11 - 15, and 17 - 21 correct errors or oversights.

**Sections that improve the form or substance of the law:** Sections 5, 10, and 16 propose amendments to improve the form or substance of the statutory law of Alaska.

## SECTIONAL ANALYSIS

Section 1 corrects an erroneous cross-reference in AS 06.05.005(a)(3). The statute currently referenced (AS 06.05.345) concerns the articles of incorporation, whereas AS 06.05.344 addresses approvals of state banks.

Section 2 changes the definition of "minor" in AS 13.06.050(29) (the Uniform Probate Code) from those persons 19 years of age and older to those persons 18 years of age and older. The uniform act indicates that states adopting it should insert the age of majority

in the definition of "minor". When AS 13.06.050 was enacted in 1972, the age of majority was 19. However, the age of majority (established in AS 25.20.010) was changed in 1977 from 19 years to 18 years of age. At that time, the definition of "minor" in AS 13.06.050 should also have been amended but was not. This bill section makes that change.

Section 3 corrects an error in a spanned reference exempting aquatic farms and hatcheries from certain other statutes relating to fisheries. Chapter 145, SLA 1988 enacted AS 16.40.100 - 16.40.199, which authorize and regulate aquatic farms and hatcheries. That same act enacted AS 16.05.930(g), which exempted activities authorized by a permit under AS 16.40.100 or 16.40.120 from AS 16.05.330 - 16.05.720. (AS 16.05.330-16.05.430 concern sport fishing and hunting and AS 16.05.440 - 16.05.720 concern commercial fishing.) However, in another 1988 act, AS 16.05.720 was repealed and replaced by AS 16.05.722 and 16.05.723, which meant that the end of the spanned reference in AS 16.05.930(g) became incorrect. The 1993 revisor's bill (sec. 5, ch. 6, SLA 1993) corrected this error by substituting "AS 16.05.723" for "AS 16.05.720". Unfortunately, sec. 5, ch. 6, SLA 1993 also changed the beginning of the spanned reference from "AS 16.05.330" to "AS 16.05.440". In all likelihood, this error was caused by duplicating the amendment in sec. 3, ch. 6, SLA 1993, which amendment correctly began with "AS 16.05.440" and also changed "AS 16.05.720" to "AS 16.05.723". At any rate, the sectional analysis of the 1993 revisor's bill makes it clear that the only change intended was the change from "AS 16.05.720" to "AS 16.05.723". To return the text to the language as enacted, this bill section reinstates "AS 16.05.330" at the beginning of the spanned reference in AS 16.05.930(g). For reasons explained in the attached memo of George Utermohle, this amendment should not have any practical effect on fish and game licensing.

Section 4 corrects an error in ch. 67, SLA 1992 by substituting "fee paid by the client" for "fee paid the client" in AS 21.27.560(a). A fee paid the client would be an illegal rebate. This correction was requested by the Department of Law.

Section 5 expands a spanned reference in AS 21.42.500 so that more sections can be easily added to AS 21.42 in the future. It also has the effect of supplying a definition of "health care insurer" and "health care insurance plan" for AS 21.42.400, which was added last year.

Section 6 amends AS 21.54.160(4)(A) to give the correct term as used in federal law and to correct a typographical error in the reference to the federal citation.

Section 7 corrects a cross-reference to federal law in AS 21.56.050(d)(3). Currently the statute refers to a federal law (42 U.S.C. 300) that governs grants for family planning services. The federal law that defines and sets requirements for health maintenance organizations is 42 U.S.C. 300e and therefore AS 21.56.050(d)(3) is amended to reference 42 U.S.C. 300e. This amendment corrects an error in ch. 39, SLA 1993.

Section 8 amends AS 23.40.215(c) to conform to the change made to AS 23.40.215(b) by ch. 15, SLA 2000. Before the 2000 amendment, subsection (b) provided for submission to, and approval or disapproval by, the legislature of the monetary terms of a collective bargaining agreement subject to the Public Employees' Retirement Act. Subsection (c) exempted agreements between school districts or REAAs and their employees from the requirement of legislative approval. Chapter 15, SLA 2000 deleted the "approval" provision from subsection (b) and amended the submission provision. However, chapter 15, SLA 2000 did not amend subsection (c), which still exempts the agreements of school districts and REAAs from "approval by the legislature." Since subsection (b) no longer requires legislative approval, subsection (c) doesn't make much sense. Based on the assumption that subsection (c) was intended to exempt school districts and REAAs from subsection (b)'s submission and approval provisions, this bill section amends subsection (c) to refer to submission to the legislature rather than approval by the legislature.

Section 9 corrects a cross-reference in AS 24.45.041(a)(7). There is no definition of "spousal equivalent" in AS 39.50.030(g); the definition of "spousal equivalent" that applies to AS 39.50.030(g) is found in AS 39.50.200(a), and so the cross-reference is changed accordingly. This corrects an error in ch. 74, SLA 1998.

Section 10 changes "section" to "subsection" in AS 38.04.900(c) in order to make the language more accurate. The term "interested person" appears only in subsection (c).

Section 11 changes "section" to "subsection" in the last sentence of AS 38.05.810(i). The last sentence authorizes sales for less than appraised market value. Because the title of the law that enacted subsection (i)---ch. 97, SLA 1992---referred to port authorities rather than land disposals in general, the last sentence of subsection (i) could legally apply only to the port authority provisions of subsection (i). This amendment makes that clear by correcting the error in ch. 97, SLA 1992.

Section 12 amends AS 38.05.821(a) to give the full proper citation in a reference to a federal law.

Sections 13 and 14 correct an error in the Alaska Coordinate System of 1927. As originally enacted, AS 38.20.060(10) did not contain the "as" that these amendments delete. In ch. 152, SLA 1984, when AS 38.20.060(10) was amended and duplicate language was added as (b)(10), the "as" appeared, although it was not shown as being inserted as new language. These two bill sections correct that typographical error by deleting the "as" that was erroneously added in 1984.

Section 15 corrects an error in AS 38.35.120(a)(1) as amended by ch. 56, SLA 2000. Before amendment by ch. 56, AS 38.35.120(a)(1) consisted of three parts. First it required certain lessees to assume the duties of a common carrier; secondly it provided a limited exemption from the common carrier provision; and thirdly it required the lessee to refrain from unjust or unreasonable discrimination and to take the oil or natural gas

that the Regulatory Commission of Alaska shall find to be reasonable in the lessee's performance of its duties as a common carrier. Chapter 56 added another limited exemption from the common carrier provision, but it was inserted at the end, so that the prohibition against unreasonable discrimination as a common carrier ended up in the paragraph providing the exception from the common carrier provision. This bill section moves the language so that the two exceptions from the common carrier provision are next to each other.

Section 16 defines "commissioner" as the commissioner of natural resources and defines "director" as the director of the division of lands for the purposes of AS 38.95.075 and 38.95.080, which relate to trapping cabin permits. Although the division of lands is currently administering these statutes, the statutes themselves do not contain applicable definitions of the terms "commissioner" and "director". This bill section supplies those definitions.

Section 17 amends the last sentence of AS 40.15.050 so that the verb ("are") agrees with the subject ("streets, alleys, or thoroughfares"). The verb was correct in the 1953 enactment, but incorrect in the 1962 codification. The other changes are purely editorial.

Section 18 changes a reference to the "division of land and water management" to the "division of lands," which is the correct name under AS 38.05.005.

Section 19 corrects a typographical error in ch. 34, SLA 1990 in the definition of "riparian area" in AS 41.17 (commonly known as the Forest Practices Act). Without this amendment, a literal reading of the term "riparian" (which commonly means "pertaining to the bank of a river") would include the river itself as well as shores or banks of rivers that were not necessarily fish water bodies. The amendment in this bill section makes the definition consistent with other related provisions of the Forest Practices Act, especially AS 41.17.118 and 41.17.119. Although the error is found in the original Governor's bill, the references in the Governor's transmittal letter to protection of "fish streams" and "streamside areas" also suggest that "or" should have been "of". See 1989 House Journal 1476 (May 3, 1989).

Section 20 corrects a minor grammatical error in AS 43.40.100(4), which is the definition of "user" in the motor fuel tax statutes. The word "either" is removed because it should be used only when "one of two" is intended, and there are three possible ways of being a "user" under AS 43.40.100(4).

Section 21 corrects an error in a cross-reference in AS 44.85.320(a) (Alaska Municipal Bond Bank Authority) by changing "appointed under this section" to "appointed under AS 44.85.310". AS 44.85.310, not AS 44.85.320, authorizes appointment of a trustee. This error occurred in a floor amendment to HB 75 (which became ch. 79, SLA 1975) in which a section was deleted and following sections renumbered, but internal references to sections were not conformed. In addition, paragraph (6) is amended so that it fits the structure of the introductory language.

Section 22 repeals AS 08.20.180(b), which provides for four-year renewals of a chiropractor's license. This corrects an omission in ch. 94, SLA 1987, which amended AS 08.01.100(a) to require biennial renewals for licenses covered by AS 08.01. Chapter 94, SLA 1987 made conforming amendments in many statutes, but omitted AS 08.20.180(b). The regulation covering these licenses (12 AAC 02.150) specifies biennial renewals, so this repeal should not affect existing practice. This section also repeals AS 14.43.310(b)(2), AS 18.65.250, AS 39.50.200(b)(17), and AS 44.19.110 - 44.19.122, all of which relate to the Governor's Commission on the Administration of Justice. This commission was established as a conduit of federal money and an entity to administer local efforts under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. However, the underlying federal provisions were omitted in the 1984 general revision enacted in P.L. 98-473, 98 Stat. 2077, and therefore no longer exist. (See explanatory note following 42 U.S.C.S. 3711.) The Department of Law requested that AS 44.19.110 - 44.19.122 be repealed since the commission no longer exists. AS 18.65.250 is repealed because it authorizes receipt of money from the commission and neither the money nor the commission exists. AS 14.43.310(b)(2) is repealed because it establishes an advisory committee for awarding the Carroll L. "Butch" Swartz Memorial Scholarship, the advisory committee to consist of three members of the defunct commission. (Although the Department of Law indicated that the Carroll L. "Butch" Swartz Memorial Scholarship has not been funded, other references to that scholarship are left in the statutes since future funding is always possible; only the advisory committee is repealed.) A copy of the statutes to be repealed is attached.

#### TEXT OF REPEALED STATUTES

AS 08.20.180(b):

(b) License renewal fees are due every four years.

AS 14.43.310(b)(2):

(2) three members of the Governor's Commission on the Administration of Justice selected annually by the commission from among its membership, for the Carroll L. "Butch" Swartz memorial scholarship;

AS 18.65.250:

Sec. 18.65.250. Financial assistance.

(a) The Governor's Commission on the Administration of Justice has the authority to assist political subdivisions and police departments in meeting the costs involved by extending financial assistance for travel, per diem, tuition, and other costs.

(b) Only those political subdivisions and police departments complying with AS 18.65.130 - 18.65.290 are eligible for financial assistance authorized under AS 44.19.116. This subsection applies only to those funds made available for providing minimum police standards.

AS 39.50.200(b)(17):

(17) Governor's Commission on the Administration of Justice (AS 44.19.110);

AS 44.19.110:

Sec. 44.19.110. Establishment of the commission. The Governor's Commission on the Administration of Justice is established in the Office of the Governor.

AS 44.19.112:

Sec. 44.19.112. Membership of the commission. The commission is composed of 13 members, to include the following: the attorney general, the commissioner of public safety, the commissioner of health and social services, the chief justice of the supreme court, the public defender, one member from each house of the legislature, four other residents of the state chosen by the governor so as to give reasonable geographic and urban-rural balance, including representation from the major ethnic groups of the state, from units of local government and from other groups concerned with the administration of justice in the state, and two other residents of the state representing citizens and professional and community organizations related to delinquency prevention. Members serve at the pleasure of the governor.

AS 44.19.114:

Sec. 44.19.114. Compensation and per diem. Members of the commission receive no salary for their service on the commission but are entitled to per diem and travel expenses authorized by law for boards and commissions.

AS 44.19.116:

Sec. 44.19.116. Grants and other aid. The commission may apply for, receive and utilize grants, gifts, and other funds and aids for the execution of its programs. Grants, gifts, and other funds may be received from the federal government and from other public and private sources.

AS 44.19.118:

Sec. 44.19.118. Commission as state planning agency. The commission shall act as the state planning agency under the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

AS 44.19.120:

Sec. 44.19.120. Duties of state planning agency.

(a) As the state planning agency, the commission has the responsibility of coordinating and planning in Alaska, the federal, state, and local efforts under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(b) The commission is authorized to investigate state and local needs and seek funding for

(1) development of more effective crime prevention programs and techniques;

(2) development of programs to aid the courts in the field of criminal adjudication;

(3) development of programs to rehabilitate offenders and prevent recidivism.

(c) The commission shall assist the planning and coordination of criminal justice personnel in the Departments of Law, Health and Social Services, and Public Safety, the public defender's office, and other appropriate agencies in a manner which projects the necessary and advisable allocation, utilization, qualifications, and coordination of criminal justice personnel at the state and local level.

(d) In order to facilitate interagency communication and cooperation, the commission shall hold interagency conferences for the discussion and planning of law enforcement, crime prevention, criminal adjudication, and offender rehabilitation programs and personnel for the Departments of Law, Health and Social Services, and Public Safety, the public defender's office, and the court.

AS 44.19.122:

Sec. 44.19.122. Staffing.

(a) The attorney general may, with the approval of the governor, select a director for the execution of the program entrusted to the commission by AS 44.19.116 - 44.19.120.

(b) The director may employ personnel necessary to carry out functions assigned by this chapter. Notwithstanding any other provisions of law, personnel appointed under this section, with the exception of the director, are members of the classified service as set out in AS 39.25.100.

MEMORANDUM

November 21, 2000

**SUBJECT:** Aquatic Farming Triennial License

**TO:** Pamela Finley  
Revisor of Statutes

**FROM:** George Utermohle  
Legislative Counsel

You have asked whether a person who operates an aquatic farm or hatchery under AS 16.40.100 - 16.40.199 is subject to the aquatic farming triennial license under AS 16.05.340(a)(14).

The answer to your question appears to be no.

A person may not operate an aquatic farm or hatchery for shellfish or aquatic plants or obtain stock for an aquatic farm or hatchery without first obtaining the appropriate permit

issued under AS 16.40.100 or 16.40.120, respectively, by the commissioner of fish and game.

AS 16.05.340(a)(14) establishes an aquatic farming triennial license.<sup>1</sup> The fee for the license is \$400. On its face, the triennial aquatic farming license seems applicable to anyone engaged in aquatic farming. However, there is no statutory requirement that a person who has an aquatic farm or hatchery permit under AS 16.40.100 - 16.40.199 must obtain the aquatic farming triennial license.

AS 16.05.340(a) establishes numerous licenses, permits, and tags, and sets out fees for those licenses, permits, and tags. Except for a few notable exceptions<sup>2</sup>, AS 16.05.340(a) does not impose a requirement that a person must obtain any of those licenses, tags, or permits. There is no provision in AS 16.05.340(a) that requires a person to obtain the aquatic farming triennial license. Unless there is a separate requirement for an aquatic farming triennial license outside of AS 16.05.340(a), a person should not be required to obtain the license.

Under AS 16.05.330(a)(3)<sup>3</sup> a person who is engaged in the farming of fish, fur, or game must have the appropriate license in the person's actual possession, unless an exemption is permitted under AS 16.05. This provision would apparently require a person who operates an aquatic farm for purposes of farming fish to have the appropriate licenses or tags. The terms "aquatic farming" and "fish farming" are largely synonymous in referring to the cultivation of aquatic life for human uses, except that "aquatic farming" is probably broader in that it may encompass farming of aquatic plants in addition to farming of fish. Absent a more specific provision in statute, the requirement that a person must possess a fish farming license in order to engage in fish farming is probably satisfied by obtaining an aquatic farming triennial license.

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<sup>1</sup> AS 16.05.340(a)(14) states:  
(14) Aquatic farming triennial license..... 400

<sup>2</sup> AS 16.05.340(a) does contain requirements that a person must obtain big game tags, waterfowl conservation tags, and anadromous king salmon tags before taking certain big game, waterfowl, and anadromous king salmon.

<sup>3</sup> AS 16.05.330(a)(3) states:  
(a) Except as otherwise permitted in this chapter, without having the appropriate license or tag in actual possession a person may not engage in

...  
(3) the farming of fish, fur, or game; or

...

If it were not for the definition of "fish or game farming" under AS 16.05.940(15)<sup>4</sup>, a person who operates an aquatic farm or hatchery for shellfish would probably have to obtain the aquatic farming triennial license in order to satisfy the requirement of AS 16.05.330(a)(3). However, for purposes of AS 16.05.330(a), "fish" does not include shellfish as defined under AS 16.40.199. Thus a person who operates an aquatic farm or hatchery for shellfish is not subject to the license requirement of AS 16.05.330 and is not required to obtain a separate license, such as the aquatic farming triennial license under AS 16.05.340(a)(14), in order to engage in aquatic farming of shellfish.

Similarly, there is apparently no requirement that an aquatic farmer engaged in farming aquatic plants is required to obtain the aquatic farming triennial license. The requirement under AS 16.05.330(a)(3) that a person engaged in fish farming must possess the appropriate license does not apply because fish farming does not include farming of aquatic plants.

AS 16.05.330(a) apparently applies only to a fish farmer engaged in the farming of finfish (i.e., fish other than shellfish as defined under AS 16.40.199). A finfish farmer could obtain the aquatic farming triennial license under AS 16.05.340(a)(14) in order to satisfy the licensing requirement imposed by AS 16.05.330(a)(3).

In 1988, when the legislature authorized aquatic farming under AS 16.40, the legislature took steps to assure that persons engaged in aquatic farming were not subject to licensing under AS 16.05.330(a) or 16.05.340(a). First, the legislature granted an exemption from several provisions of AS 16.05 to persons engaged in aquatic farming under AS 16.40. Among the statutes made inapplicable to aquatic farms authorized under AS 16.40 were AS 16.05.330 and 16.05.340. See, sec. 8, ch. 145, SLA 1988 which enacted AS 16.05.930(g).<sup>5</sup> Second, the legislature amended the definition of "fish or game farming" under AS 16.05.940 to exclude shellfish as defined under AS 16.40.199. See, sec. 9, ch. 145, SLA 1988.

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<sup>4</sup> AS 16.05.940(15) states (emphasis added):

(15) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; **in this paragraph, "fish" does not include shellfish, as defined in AS 16.40.199;**

<sup>5</sup> In 1990, AS 16.05.930(g) stated:

(g) AS 16.05.330 - 16.05.720 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

The only reason that there is now any question whether an aquatic farmer must obtain an aquatic farming triennial license is due to actions taken by the legislature in 1990 and 1993. The first legislative action amended AS 16.05.340(a)(14) to convert the fish farming biennial license into the aquatic farming triennial license. See, sec. 10, ch. 211, SLA 1990. When AS 16.05.340(a)(14) was amended in 1990, aquatic farms under AS 16.40 were exempt from the renamed license because of the exemption granted to aquatic farms and hatcheries by AS 16.05.930(g).<sup>6</sup> See, footnote 5, for the 1990 text of AS 16.05.930(g). The aquatic farming triennial license under AS 16.05.340(a)(14) and the fish farming license requirement under AS 16.05.330(a)(3) were two provisions expressly made inapplicable to persons who held aquatic farm or hatchery permits under AS 16.40. Also in 1990, the definition of "fish or game farming" (applicable to AS 16.05) excluded shellfish from the definition of "fish" and the fish farming licenses requirement under AS 16.05.330(a)(3) was inapplicable to farming of aquatic plants.

If the legislature had intended the new aquatic farming triennial license to apply to persons who held aquatic farm and hatchery permits under AS 16.40 in 1990, the legislature would have to (1) amend the exemption granted to aquatic farms under AS 16.05.930(g), (2) amend the definition of "fish or game farming" under AS 16.05.940(15) to include shellfish as defined under AS 16.40.199, and (3) amend the licensing requirement under AS 16.05.330(a)(3) to include aquatic plants. The legislature did none of these things, thus I must conclude that in 1990 the aquatic farming triennial license was not intended to apply to aquatic farms and hatcheries subject to AS 16.40.

The second action taken by the legislature complicates the issue of whether operators of aquatic farms and hatcheries must obtain an aquatic farming triennial license but does not change my conclusion. In 1993, as part of the Revisor's Bill for that year, the legislature adopted an amendment to AS 16.05.930(g) that had the effect of eliminating the exemption from AS 16.05.330 - 16.05.430 originally granted to aquatic farmers in 1988.<sup>7</sup> Sec. 5, ch. 6, SLA 1993. The amendment made aquatic farmers subject to applicable provisions of AS 16.05.330 - 16.05.430. However, as discussed above, there are no provisions of AS 16.05.330 - 16.05.430 that make the fish farming requirement of AS 16.05.330(a)(3) or the aquatic farming triennial license under AS 16.05.340(a)(14)

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<sup>6</sup> The amendment of the biennial fish farming license into the triennial aquatic farming license in 1990 is a virtual nullity. At that time the triennial aquatic license was not applicable to aquatic farming of shellfish and aquatic plants due to AS 16.05.930(g) and other provisions. Also, the license was not applicable to aquatic farming of finfish because earlier during that session of the legislature, the legislature had enacted a permanent ban on finfish farming. AS 16.40.210; Ch. 91, SLA 1990.

<sup>7</sup> AS 16.05.930(g) currently reads:

(g) AS 16.05.440 - 16.05.723 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

Senator Gene Therriault  
February 12, 2001  
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applicable to aquatic farms and hatcheries under AS 16.40. More than the elimination of the exemption from AS 16.05.330 - 16.05.430 is necessary to subject aquatic farms and hatcheries to the aquatic farming triennial license. AS 16.05.330(a) and 16.05.940(15) would also have to be amended in the manner described above.<sup>8</sup> The legislature has not made these additional changes.

**It is my conclusion that an aquatic farming activity authorized by a permit issued under AS 16.40 is not subject to the aquatic farming triennial license and that a person cannot be required to obtain an aquatic farming triennial license for an activity covered by a permit issued under AS 16.40.100 - 16.40.199.**

It may be useful to amend AS 16.05.930(g) to provide that AS 16.05.330 - 16.05.430 do not apply to activities authorized under AS 16.40.100 - 16.40.199 so that in the future the exemption is clear without having to resort to interpretation of several different statutes to determine whether aquatic farms and hatcheries under AS 16.40 are required to obtain the aquatic farming triennial license.

If I may be of further assistance, please advise.

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<sup>8</sup> There is a possibility that the elimination of the exemption from AS 16.05.330 - 16.05.430 that was originally contained in AS 16.05.930(g) may have been a mistake. First of all, the Revisor's Bill is intended to cure technical errors and oversights in the statutes that cannot be fixed editorially and require legislative action to fix. The Revisor's Bill is not intended to address policy issues such as whether aquatic farms should be exempt from the licensing provisions of AS 16.05.330 - 16.05.430. The Sectional Analysis of the bill prepared by the Revisor of Statutes stated that AS 16.05.930(g) was amended to "correct internal references that should have been changed when AS 16.05.720 was repealed and AS 16.05.722 and 16.05.723 were added by ch. 46, SLA 1988." House Journal Supplement, No. 4, Alaska State Legislature, February 17, 1993, page 2. This explanation for the change to AS 16.05.930(g) does not make any mention of making a substantive change to the exemption granted by that subsection. Instead it refers only to a technical change made necessary by a wholly unrelated amendment to provisions related to penalties for commercial fishing violations. Thus the elimination of the exemption from the licensing provisions of AS 16.05.330 - 16.05.430 that was granted to aquatic farms and hatcheries under AS 16.05.930(g) may have been an unintended typographical or editorial error.