

LEG. FINANCE - BILLS 1981 - 1982 1735
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1 receives notification from a person under this subsection, the commis-
2 sioner shall investigate the inspection and shall furnish the person
3 with a written determination and the reasons for the determination.

4 Sec. 41.45.240. ENFORCEMENT. (a) If, on the basis of an inspec-
5 tion under AS 41.45.230, the commissioner determines that a person or a
6 person's operation is in violation of this chapter or a term of a permit
7 and that the violation creates an imminent danger to the health or safe-
8 ty of the public or is causing or can reasonably be expected to cause
9 significant, imminent, environmental harm to land, air, or water re-
10 sources, the commissioner shall immediately issue a notice of violation
11 and order a cessation of the person's surface coal mining operation or
12 the portion of the operation relating to the violation. The cessation
13 order remains in effect until the commissioner determines that the vio-
14 lation has been abated, or until modified, vacated, or terminated under
15 (d) or (h) of this section. If the commissioner finds that the ordered
16 cessation of the operation, or a portion of the operation, will not com-
17 pletely abate the imminent danger to the health or safety of the public
18 or the significant, imminent environmental harm to land, air, or water
19 resources, the commissioner shall, in addition to the cessation order,
20 impose affirmative obligations on the operator to take the steps the
21 commissioner considers necessary to abate the imminent danger or signi-
22 ficant environmental harm.

23 (b) If, on the basis of an inspection, the commissioner determines
24 that a person or a person's operation is in violation of this chapter or
25 a term of a permit and that the violation does not create an imminent
26 danger to the health or safety of the public and is not causing and can-
27 not reasonably be expected to cause significant, imminent, environmental
28 harm to land, air, or water resources, the commissioner shall issue a
29 notice of violation to the permittee setting a reasonable time, which

1 may not exceed 90 days from the date the notice is issued, for the
2 abatement of the violation. However, the commissioner may, for good
3 cause, extend the time for the abatement of the violation. If, at the
4 end of the time allowed for abatement of the violation, the commissioner
5 finds, in writing, that the violation has not been abated, the commis-
6 sioner shall order a cessation of the person's surface coal mining oper-
7 ation or the portion of the operation relating to the violation. The
8 cessation order remains in effect until the commissioner determines that
9 the violation has been abated or until it is modified, vacated, or ter-
10 minated under (d) or (h) of this section. The commissioner shall deter-
11 mine the steps necessary to abate the violation in the most expeditious
12 manner possible and shall include the necessary measures in the cessa-
13 tion order issued under this section.

14 (c) A person who is or may be adversely affected by a notice of
15 violation or cessation order issued under (a) or (b) of this section, or
16 by a modification, vacation, or termination of the notice or order, may
17 apply to the commissioner for review of the notice or order within 60
18 days after receipt of the notice or order by the operator or permittee
19 or within 60 days after the modification, vacation, or termination of
20 the notice or order. On receipt of the application, the commissioner
21 shall provide for an investigation and an investigation report, as the
22 commissioner considers appropriate. At the request of the applicant or
23 another person who is or may be adversely affected, the commissioner
24 shall provide for a public hearing to enable the applicant to present
25 information relating to the notice or order or the modification, vaca-
26 tion, or termination of the notice or order. The filing of an applica-
27 tion for review under this subsection may not operate as a stay of the
28 order or notice. The commissioner shall give the applicant and other
29 interested persons written notice of the time and place of the hearing

1 at least five days before the hearing. The Administrative Procedure Act
2 (AS 44.62) applies to a hearing under this subsection except as provided
3 by regulations adopted under this chapter.

4 (d) After any review under (c) of this section, the commissioner
5 shall issue a written decision that includes findings of fact and an
6 order vacating, affirming, modifying, or terminating the notice or or-
7 der. If the application for review under (c) of this section relates to
8 a cessation order issued under (a) or (b) of this section, the commis-
9 sioner shall issue the written decision within 30 days after receipt of
10 the application for review unless the commissioner grants a request for
11 temporary relief under (e) of this section.

12 (e) An applicant for review under (c) of this section may file
13 with the commissioner a written request for temporary relief from a no-
14 tice or order issued under (a) or (b) of this section before completion
15 of the review of the notice or order. The written request must include
16 a detailed statement of the reasons in support of the request. The com-
17 missioner shall expeditiously issue an order granting or denying the
18 temporary relief. If the applicant requests temporary relief from a
19 cessation order issued under (a) or (b) of this section, the commis-
20 sioner shall issue an order granting or denying the temporary relief within
21 10 days after the commissioner receives the written request. The com-
22 missioner may grant the temporary relief under this subsection only

23 (1) after the commissioner holds a hearing in the locality of
24 the permit area on the request for temporary relief in which the parties
25 have an opportunity to be heard;

26 (2) if the applicant shows that there is substantial likeli-
27 hood that the findings of the commissioner under (d) of this section
28 will be favorable to the applicant; and

29 (3) if the temporary relief will not adversely affect the

1 health or safety of the public or cause significant, imminent, environ-
2 mental harm to land, air, or water resources.

3 (f) If, on the basis of an inspection, the commissioner has reason
4 to believe that a pattern of violations of this chapter or of a term of
5 a permit exists or has existed, and if the commissioner finds that the
6 violations are caused by the unwarranted failure of the permittee to
7 comply with the requirements or that the violations were wilfully caused
8 by the permittee, the commissioner shall issue a notice of violation and
9 an order to the permittee to, within a specified time period, show cause
10 why the permit should not be suspended or revoked. The order to show
11 cause must include notice to the permittee that a hearing may be
12 requested within 30 days.

13 (g) If the permittee requests a hearing under (f) of this section
14 the commissioner shall inform the permittee and other known interested
15 persons of the time, place, and date of the hearing. The Administrative
16 Procedure Act (AS 44.62) applies to a hearing under this subsection ex-
17 cept as provided by regulations adopted under this chapter. Within 60
18 days following the hearing or following the order to show cause if no
19 hearing is requested, the commissioner shall issue and furnish to the
20 permittee and all other parties to the hearing a written decision, or-
21 der, and the reasons for both, concerning the suspension or revocation
22 of the permit. If the commissioner suspends or revokes the permit, the
23 permittee shall immediately cease the surface coal mining operation on
24 the permit area and shall complete the reclamation of the permit area,
25 within the time specified by the commissioner. If the permittee fails
26 to complete the reclamation, the commissioner shall declare the perfor-
27 mance bonds for the operation forfeited.

28 (h) A notice or order issued under this section shall state with
29 reasonable specificity the nature of the violation, the abatement re-

1 quired, the period of time established for abatement, and a reasonable
2 description of the portion of the operation to which the notice or order
3 applies. Each notice or order issued under this section must be given
4 promptly to the alleged violator at the mine site unless the alleged
5 violator has appointed an agent, in which case the agent may be served.
6 A notice or order issued under this section may be modified, vacated, or
7 terminated by the commissioner. A cessation order issued under (a) or
8 (b) of this section expires not more than 30 days after the alleged
9 violator receives actual notice of the order unless an informal confer-
10 ence is held as provided in regulations adopted under this chapter, or
11 unless the right to such a conference is waived by the alleged violator.
12 The commissioner shall hold the conference at a location that allows the
13 permit area to be viewed during the conference. The commissioner shall
14 issue a written order affirming, modifying, vacating, or terminating the
15 cessation order within five days of the conference. The holding of a
16 conference or the waiver of it does not prejudice any other rights to
17 administrative or judicial review provided under this chapter nor does
18 it operate as a stay of a notice or order.

19 (i) Whenever an order is issued under this chapter, the commis-
20 sioner may, in the commissioner's discretion, assess any party for the
21 costs and attorney fees reasonably incurred by another party in connec-
22 tion with the order.

23 (j) The commissioner may request the attorney general to institute
24 a civil action for relief, including a permanent or temporary injunc-
25 tion, restraining order, or other appropriate order, if a person

26 (1) violates an order or notice issued by the commissioner
27 under this chapter;

28 (2) interferes with the commissioner carrying out the provi-
29 sions of this chapter;

1 (3) unlawfully refuses to admit the commissioner into an op-
2 eration;

3 (4) unlawfully refuses to permit inspection of an operation
4 by the commissioner;

5 (5) fails to furnish information or a report requested by the
6 commissioner under regulations adopted under this chapter; or

7 (6) refuses to permit access to or copying of records by the
8 commissioner which the commissioner determines are reasonably necessary
9 to carry out the provisions of this chapter.

10 (k) An action under (j) of this section shall be brought in the
11 superior court in the judicial district in which the greater portion of
12 the operation is located or in the judicial district where the opera-
13 tor's principal office is located. The superior court has jurisdiction
14 to grant appropriate relief under (j) of this section. Relief granted
15 by a superior court for a situation described in (j)(1) of this section
16 continues in effect until the completion of proceedings for review of
17 the notice or order under this section unless before that time the su-
18 perior court modifies or sets aside the notice or order.

19 (1) In the case of a judicial proceeding to review an order or de-
20 cision issued by the commissioner under this chapter, the court may, un-
21 der conditions it may prescribe, grant the temporary relief it considers
22 appropriate pending final determination of the proceedings if

23 (1) all parties to the proceedings have been notified and
24 given an opportunity to be heard on a request for temporary relief;

25 (2) the person requesting the relief shows that there is a
26 substantial likelihood that the person will prevail on the merits of the
27 final determination of the proceeding; and

28 (3) the relief will not adversely affect the public health or
29 safety or cause significant imminent environmental harm to land, air, or

1 water resources.

2 (m) The commencement of a judicial proceeding to review an order
3 or decision of the commissioner does not, unless specifically ordered by
4 the court, operate as a stay of the action, order, or decision of the
5 commissioner.

6 (n) The fact that action of the commissioner is subject to judi-
7 cial review in accordance with other provisions of state law may not be
8 construed to limit the operation of the rights established in AS 41.-
9 45.950 except as provided in that section.

10 Sec. 41.45.250. PENALTIES. (a) The commissioner may assess a
11 civil penalty against a person if the person or the person's operation
12 violates a condition of a permit or a provision of this chapter. If as
13 a result of the violation the commissioner issues a cessation order un-
14 der AS 41.45.240, the commissioner shall assess a civil penalty. The
15 civil penalty may not exceed \$5,000 for a violation. The commissioner
16 may consider each day of a continuing violation as a separate violation
17 for the purposes of this subsection. In determining whether to assess
18 and the amount of a civil penalty, the commissioner shall consider the
19 person's history of previous violations at the site of the operation,
20 the seriousness of the violation, including the irreparable harm done to
21 the environment and the hazard created to the health or safety of the
22 public, the person's negligence, and the good faith of the person in at-
23 tempting to achieve rapid compliance after receiving notification of the
24 violation.

25 (b) Within 30 days after issuing a notice or order under AS 41.-
26 45.240 to a person, the commissioner shall inform the person of the
27 amount of the penalty. The person notified of the penalty then has 30
28 days in which to pay the penalty in full or to contest either the amount
29 of the penalty or the fact of the violation. If the person wishes to

1 contest either the amount of the penalty or the fact of the violation,
2 the person may submit to the commissioner a bond equal to the penalty
3 amount at the time the person files an application for review. The bond
4 shall be conditioned for the satisfaction of the penalty in full if the
5 commissioner's determination of an occurrence of a violation and the
6 assessment of a penalty are affirmed. An application for review is
7 effective when the bond is approved by the commissioner. If the bond is
8 not approved, the person charged with the penalty shall forward the
9 proposed amount to the commissioner within 10 days of the disapproval of
10 the bond for placement in an escrow account in order to make the petition
11 effective.

12 (c) The commissioner shall assess a civil penalty under (a) of
13 this section only after the person charged with a violation has been
14 given an opportunity for a public hearing. If a public hearing is held,
15 the commissioner shall make findings of fact and shall issue a written
16 decision relating to the occurrence of the violation and the amount of
17 the civil penalty which is warranted. The written decision may order
18 the person to pay the penalty. The commissioner may consolidate a hear-
19 ing under this section with other proceedings under AS 41.45.240. The
20 Administrative Procedure Act (AS 44.62) applies to a hearing under this
21 subsection except as provided by regulations adopted under this chapter.
22 If the person notified of a penalty does not request a public hearing,
23 the commissioner may assess the penalty and order its payment only after
24 the commissioner has determined that the person committed the violation
25 and has determined the amount of the penalty which is warranted.

26 (d) A civil penalty owed under this section may be recovered in a
27 civil action brought by the attorney general at the request of the com-
28 missioner.

29 (e) A person other than a corporation who wilfully and knowingly

1 violates a condition of a permit, an order issued under AS 41.45.240, or
2 an order incorporated in a final decision under this chapter, except an
3 order incorporated in a decision issued under (c) of this section, is
4 guilty of a class C felony.

5 (f) If a corporation violates a condition of a permit, an order
6 issued under AS 41.45.240, or an order incorporated in a final decision
7 issued by the commissioner under this chapter, except an order incorpo-
8 rated in a decision issued under (c) of this section, a director, offi-
9 cer, or agent of the corporation who wilfully and knowingly authorized,
10 ordered, or carried out the violation is subject to a civil penalty un-
11 der (a) - (d) of this section and is guilty of a class C felony.

12 (g) A person who knowingly makes a false statement, representa-
13 tion, or certification, or knowingly fails to make a required statement,
14 representation, or certification in an application, record, report,
15 plan, or other document filed or required to be maintained under this
16 chapter is guilty of a class C felony.

17 (h) A person who fails to correct a violation for which a notice
18 of violation or a cessation order has been issued under AS 41.45.240
19 within the period or subsequent extension permitted for its correction
20 shall be assessed a civil penalty of \$750 for each day the failure or
21 violation continues. The period for correction continues until

22 (1) the entry of a final order by the commissioner in a
23 review proceeding initiated by the alleged violator in which the commis-
24 sioner orders, after an expedited hearing, the suspension of the abate-
25 ment requirements of the notice or order after determining that the
26 alleged violator will suffer irreparable loss or damage from the appli-
27 cation of those requirements; or

28 (2) the entry of an order of the court in a review proceeding
29 under AS 44.62.560 - 44.62.570 initiated by the alleged violator in

1 which the court orders the suspension of the abatement requirements of
2 the notice or order.

3 (i) A person who, except as permitted by law, wilfully resists,
4 prevents, impedes, or interferes with the commissioner in the perfor-
5 mance of duties under this chapter is guilty of a class C felony.

6 Sec. 41.45.260. AREAS UNSUITABLE FOR SURFACE COAL MINING. (a)
7 The commissioner shall use competent and scientifically sound data and
8 information in order to make objective decisions as to which areas of
9 land are unsuitable for all or certain types of surface coal operations.
10 The decisions shall

11 (1) reflect the planning activities of federal, state, and
12 municipal governments; and

13 (2) use a data base and inventory system that will permit the
14 evaluation of areas of the state to support and permit reclamation of
15 surface coal mining operations.

16 (b) A person or municipality having an interest which is or may be
17 adversely affected may file a petition with the commissioner to desig-
18 nate an area as unsuitable for mining or to terminate a designation un-
19 der this section. The petition must contain allegations of facts with
20 supporting evidence that would tend to establish the allegations. Within
21 three to seven months after receipt of a petition, the commissioner
22 shall hold a public hearing in the locality of the area, under regula-
23 tions adopted by the commissioner. The commissioner may extend the time
24 within which a hearing must be held if an extension is required to in-
25 clude a field season. After the filing of a petition and before the
26 hearing, other persons may intervene by filing allegations of fact with
27 supporting evidence. Within 60 days after the hearing the commissioner
28 shall issue and furnish to the petitioner and intervenors a written de-
29 cision regarding the petition and the reasons for the commissioner's

1 decision. The commissioner may cancel the hearing if the parties all
2 agree to the cancellation.

3 (c) Upon receipt of a petition under (b) of this section, the com-
4 missioner

5 (1) shall designate an area as unsuitable for all or certain
6 types of surface coal mining operations if the commissioner determines
7 that reclamation in accordance with this chapter and regulations adopted
8 under it is not technologically feasible in the area;

9 (2) may designate an area as unsuitable for all or certain
10 types of surface coal mining operations if the commissioner determines
11 that the operations in the area will

12 (A) be incompatible with existing state or local land
13 use programs;

14 (B) affect fragile or historic land in which the opera-
15 tions could result in significant damage to important historic,
16 cultural, scientific and aesthetic values and natural systems;

17 (C) affect aquifer recharge areas or other renewable re-
18 source land in which the operations could result in a substantial
19 loss or reduction of long-range productivity of water supply or
20 food or fiber products; or

21 (D) affect areas subject to frequent flooding and areas
22 of unstable geology, or other natural hazard land in which the op-
23 erations could substantially endanger life and property.

24 (d) Subject to valid existing rights, the commissioner may not
25 permit surface coal mining operations except those which existed on
26 August 3, 1977,

27 (1) on any land within the boundaries of a unit of the
28 National Park System, the National Wildlife Refuge Systems, the National
29 System of Trails, the National Wilderness Preservation System, the Wild

1 and Scenic Rivers System, including study rivers designated under sec-
2 tion 5(a) of the Wild and Scenic Rivers Act, and National Recreation
3 Areas designated by Act of Congress;

4 (2) that will adversely affect a publicly owned park or a
5 place included in the National Register of Historic Sites unless ap-
6 proved jointly by the commissioner and the federal, state, or local
7 agency that has jurisdiction over the park or the historic site;

8 (3) within 100 feet of the outside right-of-way line of any
9 public road, except where mine access roads or haulage roads join the
10 right-of-way line, and except that the commissioner may permit roads to
11 be relocated or the area affected to lie within 100 feet of a road, if
12 after public notice and opportunity for public hearing in the locality,
13 a written finding is made that the interests of the public and the
14 landowners affected by it will be protected; or

15 (4) within 300 feet from any occupied dwelling, unless waived
16 by the owner of the dwelling, or within 300 feet of a public building,
17 school, church, community, or institutional building, public park, or
18 within 100 feet of a cemetery.

19 (e) Before designating an area as unsuitable under this section,
20 the commissioner shall prepare a detailed statement of the potential
21 coal resources of the area, the demand for coal resources, and the im-
22 pact of the designation on the environment, the economy, and the supply
23 of coal.

24 (f) Determinations of unsuitability of land for surface coal min-
25 ing must consider present and future land use planning and regulation
26 processes at the federal, state and local levels.

27 (g) This section does not apply to land on which a surface coal
28 mining operation was conducted on or before August 3, 1977, or under a
29 permit issued under this chapter before a determination of unsuitabil-

1 ity. This section does not apply to an area if a person had made sub-
2 stantial legal or financial commitments for an operation or proposed op-
3 eration in that area before January 4, 1977.

4 (h) A designation of unsuitability under this section does not
5 prevent coal exploration of any designated area.

6 (i) The commissioner shall adopt regulations to implement this
7 section.

8 ARTICLE 3. ABANDONED MINES.

9 Sec. 41.45.270. ABANDONED MINE RECLAMATION FUND. The commissioner
10 may take the actions necessary to ensure state participation to the
11 fullest extent practicable in the Abandoned Mine Reclamation Fund cre-
12 ated in 30 U.S.C. 1231 and to function as the state agency for that par-
13 ticipation. In conformity with the Surface Mining Control and Reclama-
14 tion Act of 1977, the commissioner shall

15 (1) by regulation, establish priorities that meet the terms
16 of the Surface Mining Control and Reclamation Act of 1977, for the
17 expenditure of money received by the commissioner from the Abandoned
18 Mine Reclamation Fund;

19 (2) designate land and water eligible for reclamation or
20 abatement with money received by the commissioner from the Abandoned
21 Mine Reclamation Fund;

22 (3) submit reclamation plans, annual projects, and applica-
23 tions to the appropriate authorities under the terms of the Surface Min-
24 ing Control and Reclamation Act of 1977; and

25 (4) administer money received by the state for abandoned mine
26 reclamation or related purposes from the Abandoned Mine Reclamation
27 Fund.

28 Sec. 41.45.280. ELIGIBLE LAND AND WATER. Land and water eligible
29 for reclamation or drainage abatement expenditures under this chapter

1 are those that were mined for coal or were affected by such mining,
2 wastebanks, coal processing, or other coal mining processes, and
3 abandoned or left in an inadequate reclamation status before August 3,
4 1977, and for which there is no continuing reclamation responsibility
5 under state or federal law.

6 Sec. 41.45.290. ENTRY ONTO ABANDONED MINE AREA. (a) The commis-
7 sioner may enter real property that has been adversely affected by past
8 surface coal mining practices and other real property necessary for ac-
9 cess to adversely affected real property to restore or reclaim the real
10 property or to abate, control, or prevent the adverse effects. The
11 money expended for and the benefits accruing to the real property from
12 work performed under this subsection is chargeable against the real
13 property and mitigates or offsets a claim in or an action brought by an
14 owner of an interest in the real property for damages resulting from the
15 entry. This subsection does not create new rights of action or elimi-
16 nate existing immunities.

17 (b) The commissioner may enter real property for the purposes of
18 conducting studies or exploratory work to determine the existence of ad-
19 verse effects from past surface coal mining practices and to determine
20 the feasibility of restoring or reclaiming the real property or abating,
21 controlling, or preventing the adverse effects of past coal mining prac-
22 tices.

23 (c) The commissioner may enter real property under (a) or (b) of
24 this section only after

25 (1) giving notice of the entry by mailing it to the owners if
26 they are known, or, if not known, by posting notice on the premises and
27 advertising once a week for four consecutive weeks in a newspaper of
28 general circulation in the area in which the land is located;

29 (2) making written findings that

1 (A) the land or water resources have been adversely af-
2 fected by past coal mining practices;

3 (B) the adverse effects are at a stage that, in the pub-
4 lic interest, action to restore, reclaim, abate, control, or pre-
5 vent the adverse effects of past coal mining practices should be
6 taken; and

7 (C) the owners of the land or water resources where en-
8 try must be made to restore, reclaim, abate, control, or prevent
9 the adverse effects of past coal mining practices are not known or
10 readily available, or will not give permission for the entry.

11 Sec. 41.45.300. ACQUISITION OF ABANDONED MINE AREAS. (a) The
12 commissioner may, by purchase, donation, or condemnation in accordance
13 with AS 09.55.240 - 09.55.460, acquire real property that has been ad-
14 versely affected by past surface coal mining practices if the commis-
15 sioner determines that

16 (1) acquisition of the real property is necessary to the suc-
17 cessful reclamation of the real property and is in the public interest;
18 and

19 (2) the real property, after its restoration or reclamation
20 or after the abatement, control, or prevention of the adverse effects,
21 will serve recreational, historic, conservation, or reclamation purposes
22 or will provide open space benefits; and

23 (3) permanent facilities will be constructed on the real
24 property for the restoration or reclamation of the real property or for
25 the abatement, control, or prevention of the adverse effects; or

26 (4) if the real property includes a coal refuse disposal
27 site, the acquisition of the coal refuse disposal site and the coal re-
28 fuse on the site will serve the purposes of this section; or

29 (5) public ownership is desirable to meet emergency situa-

1 tions created by the adverse effects and to prevent recurrences of the
2 adverse effects.

3 (b) Title to real property acquired under this section is in the
4 state. If the commissioner acquires the real property by purchase or
5 condemnation, the commissioner shall pay the fair market value of the
6 real property as adversely affected by past coal mining practices.

7 (c) If real property acquired under this section is suitable for
8 industrial, commercial, residential, or recreational development, the
9 commissioner may sell the real property by competitive bidding, at not
10 less than the fair market value of the real property. The commissioner
11 shall adopt regulations relating to the sale of real property under this
12 subsection which will ensure that the use of the real property is con-
13 sistent with any state and local land use plans. If money received by
14 the commissioner from the federal government is involved in the acquisi-
15 tion of the real property, the commissioner may sell the real property
16 only if the sale is authorized by the Secretary of the United States De-
17 partment of the Interior. If a person requests it, the commissioner
18 shall hold a hearing in the area in which the real property is located
19 to consider the use or disposition of the real property after its re-
20 storation or reclamation or after the abatement, control, or prevention
21 of adverse effects. The commissioner shall hold the hearing at a time
22 that will afford local residents and representatives of municipal gov-
23 ernment in the area the maximum opportunity to participate in the hear-
24 ing. The commissioner shall publish notice of the hearing in a newspaper
25 of general circulation in the area in which the real property is located
26 at least 10 days before holding the hearing.

27 Sec. 41.45.310. LIENS ON ABANDONED MINE AREAS. (a) Within six
28 months after the completion of a project under AS 45.41.290 to restore
29 or reclaim privately owned real property or to abate, control, or pre-

1 vent the adverse effects of past surface coal mining practice on pri-
2 vately owned real property, the commissioner shall itemize the money
3 spent on the project. If the project results or will result in a sig-
4 nificant increase in the real property's fair market value, the commis-
5 sioner may file a statement of the money spent in the recording office
6 in the area in which the real property is located with a notarized ap-
7 praisal by a licensed appraiser of the fair market value of the real
8 property before the project began. The statement constitutes a lien on
9 the real property as of the date of the expenditure which is second only
10 to the lien of property taxes. The lien may not exceed the amount de-
11 termined by either of two appraisals to be the increase in the fair mar-
12 ket value of the real property as a result of the project. A lien may
13 not be filed under this subsection against real property of a person who
14 owned the surface before May 2, 1977, and who did not consent to, parti-
15 cipate in, or exercise control over the surface coal mining operation
16 which necessitated the project.

17 (b) A person affected by a lien under (a) of this section may pe-
18 tition the commissioner within 60 days after the recording of the lien
19 for a hearing concerning the amount of the lien.

20 Sec. 41.45.320. FILLING VOIDS AND SEALING TUNNELS. The commis-
21 sioner may authorize the filling of voids, sealing open and abandoned
22 tunnels, shafts, and entryways resulting from any previous mining opera-
23 tion and reclaim surface impacts of underground and surface mines to the
24 extent authorized by the Secretary of the United States Department of
25 the Interior.

26 Sec. 41.45.330. EMERGENCY POWERS IN ABANDONED MINE AREAS. (a) In
27 emergency situations the commissioner may use money available to the
28 state in the Abandoned Mine Reclamation Fund for the purposes of AS 41.-
29 45.290(a) if the commissioner finds that

1 (1) an emergency exists which constitutes a danger to the
2 public health, safety, or general welfare; and

3 (2) no other person or agency will act expeditiously for
4 those purposes.

5 (b) If the commissioner makes the findings described in (a) of
6 this section, the commissioner may enter on real property under AS 41.-
7 45.290(a) or (b) without giving the notice or making the findings re-
8 quired by AS 41.45.290(c). An entry onto real property under this sec-
9 tion may not be considered a condemnation of property or a trespass.

10 Sec. 41.45.340. MISCELLANEOUS POWERS REGARDING ABANDONED MINE
11 LANDS. (a) The commissioner may request the attorney general to initi-
12 ate, in addition to any other remedies provided for in this chapter, an
13 action in equity for an injunction to restrain any interference with the
14 exercise of the right to enter or to conduct the work described in
15 AS 41.45.270 - AS 41.45.340.

16 (b) The state has the power and authority to construct and operate
17 plants for the control and treatment of water pollution resulting from
18 mine drainage, including major interceptors and other appurtenant facili-
19 ties, so long as that control and treatment complies with the Federal
20 Water Pollution Control Act (33 U.S.C. 1151, et seq., as amended).

21 ARTICLE 4. GENERAL PROVISIONS.

22 Sec. 41.45.900. MINING BY GOVERNMENT AGENCIES OR ON GOVERNMENT
23 LAND. A federal, state or municipal government agency, including a
24 publicly owned utility or corporation, that proposes to engage in a
25 surface coal mining operation that is subject to this chapter must
26 comply with this chapter.

27 Sec. 41.45.910. EXEMPTIONS. The provisions of this chapter do not
28 apply to the extraction of coal

29 (1) by a landowner or lessee for the landowner's or lessee's

1 own noncommercial use from land owned or leased by it;

2 (2) for commercial purposes if the surface coal mining opera-
3 tion affects two acres or less; or

4 (3) as an incidental part of highway or other construction
5 financed in whole or in part as specified by regulation, by a federal,
6 state, or municipal government agency.

7 Sec. 41.45.920. EXPERIMENTAL PRACTICES. In order to encourage ad-
8 vances in mining and reclamation practices, and to allow post-mining
9 land use for industrial, commercial, residential, recreational, or pub-
10 lic purposes, the commissioner may, with the approval of the Secretary
11 of the United States Department of the Interior, authorize departures in
12 individual cases on an experimental basis from the environmental per-
13 formance standards established under AS 41.45.210. The commissioner may
14 authorize these departures if

15 (1) the experimental practices are, during and after the sur-
16 face coal mining operation, potentially more protective of the environ-
17 ment than, or at least as protective of the environment, as those re-
18 quired by this chapter and regulations adopted under it;

19 (2) the surface coal mining operation for which the departure
20 is authorized is not larger than necessary to determine the effective-
21 ness and economic feasibility of the experimental practices; and

22 (3) the experimental practices do not reduce the protection
23 afforded public health and safety below that provided by law or regula-
24 tion.

25 Sec. 41.45.930. WATER RIGHTS AND REPLACEMENT. (a) Nothing in
26 this chapter may be construed to affect the right of a person to protect
27 the person's interest in water resources affected by a surface coal
28 mining operation.

29 (b) An operator shall replace the water supply of an owner of in-

1 terest in real property who obtains all or part of the owner's supply
2 of water for domestic, agricultural, industrial, or other beneficial use
3 from an underground or surface source, if the supply has been affected
4 by contamination, diminution, or interruption, proximately resulting
5 from the operator's surface coal mining operation.

6 Sec. 41.45.940. CERTIFICATION OF BLASTERS. The commissioner shall
7 adopt regulations requiring the training, examination, and certification
8 of persons engaging in or directly responsible for blasting or the use
9 of explosives in surface coal mining operations.

10 Sec. 41.45.950. CIVIL ACTIONS. (a) Except as provided in (b) of
11 this section, a person who is or may be adversely affected by a failure
12 to comply with this chapter may commence a civil action in the superior
13 court on the person's own behalf and compel compliance with this chapter
14 against

15 (1) the commissioner, if the commissioner has failed to per-
16 form a nondiscretionary act or duty;

17 (2) an instrumentality or agency of the state which is in
18 violation of this chapter or a regulation adopted, or an order or permit
19 issued, under this chapter; or

20 (3) a person who is in violation of a regulation adopted or
21 an order or permit issued under this chapter.

22 (b) A person may not commence an action under (a)(1) of this sec-
23 tion until 60 days after giving the commissioner written notice of the
24 intended action, in the manner prescribed by regulations adopted by the
25 commissioner, except that an action may be brought immediately after the
26 notice, if the commissioner's failure to perform constitutes an imminent
27 threat to the health or safety of the person or would immediately affect
28 a legal interest of the person.

29 (c) A person may not commence an action under (a)(2) or (a)(3) of

1 this section

2 (1) until 60 days after the plaintiff has given notice in
3 writing of the violation to the commissioner and to the agency, instru-
4 mentality, or alleged violator;

5 (2) if the state is diligently prosecuting a civil action in
6 a state or federal court to require compliance with the provisions of
7 this chapter or a regulation adopted or an order or permit issued under
8 this chapter; however, any person may intervene in that civil action as
9 a matter of right.

10 (d) A person may commence an action under this section only in the
11 judicial district in which the surface coal mining operation is located.
12 In an action under this section, the commissioner may intervene as a
13 matter of right.

14 (e) Nothing in this section restricts any right that a person or
15 class of persons may have under statute or common law to seek enforcement
16 of any of the provisions of this chapter and the regulations adopted
17 under it, or to seek any other relief, including relief against the
18 commissioner.

19 (f) A person who is injured or whose property is damaged by the
20 violation by a permittee of a regulation adopted or an order or permit
21 issued under this chapter may bring an action for damages, including
22 reasonable attorney fees and expert witness fees, only in the judicial
23 district in which the permittee's operation is located. Nothing in this
24 subsection affects the rights established by or limits imposed under
25 AS 23.30.

26 Sec. 41.45.960. INCONSISTENCIES WITH FEDERAL ACT. (a) A provi-
27 sion of this chapter that is inconsistent with the provisions of the
28 Surface Mining Control and Reclamation Act of 1977 as determined by the
29 Secretary of the United States Department of the Interior under 30

1 U.S.C. 1255(b) is invalid from the date of the secretary's determina-
2 tion.

3 (b) If a provision of the Surface Mining Control and Reclamation
4 Act of 1977 or of the regulations promulgated under that Act by the Sec-
5 retary of the United States Department of the Interior is deleted,
6 amended, set aside, enjoined, or declared invalid by Congress, the sec-
7 retary, or in a final, unappealable judgment of a court of competent
8 jurisdiction, then the commissioner shall review the changes made and
9 make an appropriate recommendation as to whether changes in this chapter
10 or the regulations adopted under it should be made.

11 Sec. 41.45.970. RELATIONSHIP TO OTHER LAWS. (a) Nothing in this
12 chapter abrogates or modifies the power of a state agency to enforce
13 laws and regulations within its jurisdiction, except as specifically
14 stated in this chapter and regulations adopted under it. The commis-
15 sioner shall coordinate permitting procedures to prevent unnecessary
16 duplication in permit review.

17 (b) Surface coal mining operations for coal which has been or is
18 conveyed out of federal ownership must meet the requirements of this
19 chapter.

20 Sec. 41.45.975. SEVERABILITY. If any provision of this chapter or
21 the applicability of it to any person or circumstances is held invalid,
22 the remainder of this Act and the application of that provision to other
23 persons or circumstances is not affected.

24 Sec. 41.45.980. ADMINISTRATIVE PROCEDURE ACT. Unless otherwise
25 provided, the Administrative Procedure Act (AS 44.62) applies to this
26 chapter.

27 Sec. 41.45.998. DEFINITIONS. In this chapter

28 (1) "alluvial valley floors" means the unconsolidated stream-
29 laid deposits holding streams where water availability is sufficient for

1 subirrigation or flood irrigation agricultural activities but does not
2 include upland areas which are generally overlain by a thin veneer of
3 colluvial deposits composed chiefly of debris from sheet erosion, depo-
4 sits by unconcentrated runoff or slope wash, together with talus, other
5 mass movement accumulation and windblown deposits;

6 (2) "applicant" means a person or other entity seeking a per-
7 mit from the commissioner to conduct surface coal mining or underground
8 mining activities under this chapter;

9 (3) "coal" means all forms of coal, including lignite;

10 (4) "commissioner" means the commissioner of natural resources
11 or the commissioner's authorized representatives or agents;

12 (5) "department" means the Department of Natural Resources;

13 (6) "imminent danger to the health and safety of the public"
14 means the existence of a condition or practice, or a violation of a
15 permit or other requirement of this chapter in a surface coal mining and
16 reclamation operation under which a rational person would not submit to
17 exposure for fear of substantial physical harm;

18 (7) "operation" means a surface coal mining operation or a
19 surface coal mining and reclamation operation;

20 (8) "operator" means a person engaged in coal mining who
21 removes or intends to remove more than 250 tons of coal from the earth
22 by coal mining within 12 consecutive calendar months in any one loca-
23 tion;

24 (9) "other minerals" means clay, stone, sand, gravel, metal-
25 liferous and non-metalliferous ores, and other solid materials or sub-
26 stances of commercial value excavated in solid form from natural depo-
27 sits on or in the earth, exclusive of coal, and those minerals that oc-
28 cur naturally in liquid or gaseous form;

29 (10) "permit" means a permit to conduct a surface coal mining

1 and reclamation operation issued by the commissioner under the terms of
2 this chapter;

3 (11) "permit area" means the area of land indicated on the ap-
4 proved maps submitted by the operator with his application which must be
5 covered by the operator's bond as required by AS 41.45.160 and must be
6 readily identifiable by appropriate markers on the site;

7 (12) "permittee" means a person holding a permit to conduct a
8 surface coal mining and reclamation operation or underground mining ac-
9 tivities under this chapter;

10 (13) "person" means an individual, partnership, association,
11 society, joint-stock company, firm, company, corporation or other busi-
12 ness organization;

13 (14) "reclamation plan" means a plan for the reclamation of an
14 applicant's proposed surface coal mining operation submitted by the ap-
15 plicant under regulations adopted under AS 41.45.110;

16 (15) "significant imminent environmental harm to land, air or
17 water resources" means a condition, practice, or violation which is
18 causing or can be expected to cause an appreciable, reparable adverse
19 impact to land, air, or water resources including, but not limited to,
20 plant and animal life;

21 (16) "surface coal mining and reclamation operation" means a
22 surface coal mining operation and the activities necessary and incident-
23 al to the reclamation of that operation after August 3, 1977;

24 (17) "surface coal mining operations" means
25 (A) an activity
26 (i) conducted on the surface of land in connection
27 with a surface coal mine or, to the extent that the activity
28 affects the surface of land, conducted in connection with an
29 underground coal mine;

1 (ii) the products of which enter commerce or the op-
2 eration of which directly or indirectly affects interstate
3 commerce;

4 (iii) which may include contour, strip, auger, moun-
5 tain top removal, boxcut, open pit, and area mining; the use
6 of explosives and blasting; on-site distillation or retorting,
7 leaching, or other chemical or physical processing of coal;
8 and loading of coal for interstate commerce at or near the
9 mine site;

10 (iv) other than an activity relating to the extrac-
11 tion of coal incidental to the extraction of other minerals
12 under which the coal extracted does not exceed 16 and 2/3 per-
13 cent of the total tonnage of coal and other minerals removed
14 annually for purposes of commercial use or sale and other than
15 a coal exploration activity subject to this chapter; and

16 (B) the areas on which an activity described in (A) of
17 this paragraph occurs or where the activity disturbs the natural
18 land surface, including adjacent land, the use of which is inci-
19 dental to the activity; land affected by the construction of new
20 roads or the improvement or use of existing roads to gain access to
21 the site of the activity and for haulage; and excavation, workings,
22 impoundments, dams, ventilation shafts, entry ways, refuse banks,
23 dumps, stockpiles, overburden piles, spoil banks, culm banks, tail-
24 ings, holes or depressions, repair areas, storage areas, processing
25 areas, shipping areas, and other areas upon which are situated
26 structures, facilities, or other property or materials on the sur-
27 face resulting from or incidental to the activity;

28 (18) "Surface Mining Control and Reclamation Act of 1977"
29 means P.L. 95-87, 91 Stat. 447-532, 30 U.S.C. secs. 1201-1328, as

1 amended;

2 (19) "unwarranted failure to comply" means the failure of a
3 permittee to prevent or abate a violation of a permit or of this chapter
4 because of indifference, lack of diligence, or lack of reasonable care.

5 Sec. 41.45.999. SHORT TITLE. This chapter may be cited as the
6 Alaska Surface Coal Mining Control and Reclamation Act.

7 * Sec. 2. AS 41.45.970 is amended by adding a new subsection to read:

8 (c) As 44.62.632 - 44.62.638 do not apply to actions governed by
9 this chapter.

10 * Sec. 3. INITIAL APPLICATIONS FOR SURFACE COAL MINING PERMITS. Not
11 later than two months after the date of approval by the federal government of
12 the state program for the regulation of surface coal mining under the terms
13 of the Surface Mining Control and Reclamation Act of 1977, regardless of lit-
14 igation contesting that approval or the implementation of the state program,
15 an operator of a surface coal mine who plans to operate that mine more than
16 eight months after the approval of the state program must apply for a permit
17 under AS 41.45.060(a) for the operation of the surface coal mine. The De-
18 partment of Natural Resources shall process an application received under
19 this section and shall grant or deny the permit within eight months after the
20 date of the approval of the state program.

21 * Sec. 4. RESERVATION CLAUSE. Passage of this Act may not be considered
22 an admission by the State of Alaska of the legality or constitutionality of
23 the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 91 Stat.
24 447-532, 30 U.S.C. 1201-1328, as amended, and may not be construed to limit,
25 waive, or otherwise affect the right of the State of Alaska, or its agencies,
26 from contesting the constitutional or statutory validity of all or part of a
27 regulation promulgated under the Surface Mining Control and Reclamation Act
28 of 1977.

29 * Sec. 5. The commissioner of natural resources shall adopt regulations

1 under the Administrative Procedure Act (AS 44.62) to implement this Act.
2 These regulations may not take effect until the effective date of sec. 1 of
3 this Act.

4 * Sec. 6. Sections 1 and 3 of this Act take effect upon approval of the
5 state program for the regulation of surface coal mining, enacted in sec. 1 of
6 this Act, by the Secretary of the United States Department of the Interior
7 under the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 91
8 Stat. 447-532, 30 U.S.C. 1201-1328, as amended.

9 * Sec. 7. Section 2 of this Act takes effect on the effective date of a
10 version of Senate Bill No. 84, "An Act relating to processing of permits by
11 state agencies."

12 * Sec. 8. Sections 4 and 5 of this Act take effect immediately in accor-
13 dance with AS 01.10.070(c).

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____
Title Alaska Surface Coal Mining Control and Reclamation Act
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Natural Resources
Program Category Affected Management of Mineral Resources
BRU, Program, Or Subprogram(s) Affected Mineral Development
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		157.1	157.1	200.2	200.2	200.2
200 TRAVEL		19.8	20.9	42.1	49.5	54.5
300 CONTRACTUAL		375.0	490.3	343.3	428.7	467.3
400 COMMODITIES		1.0	1.1	1.5	1.6	1.8
500 EQUIPMENT		13.0	10.0	3.8	3.0	3.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		565.9	679.4	642.3	684.4	728.2

FUNDING (Thousands of Dollars)

GENERAL FUND		161.9	200.0	190.7	202.6	213.0
FEDERAL FUNDS		402.0	477.6	449.6	479.8	513.2
OTHER (Specify Source)						

POSITIONS

FULL TIME		4	4	5	5	5
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See Attachment

IV. DATE 2/8/82 PREPARED BY Jeff Haynes
AGENCY Natural Resources
Original: Legislative Finance PHONE 465-2400
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

III. ANALYSIS

This note assumes that a regulatory program is approved by the Secretary of the Interior and becomes effective on 12-31-82.

A. Personal Services

The program will require 4 positions at its inception: Geologist IV, Env. Engineer III, Land Management Officer II and Clerk-Typist III. An additional Scientist/Engineer II position is projected for FY 85 and beyond due to additional coal operations projected in the state at that time.

The Geologist will be the manager of the surface mining regulatory program. He will supervise contracts for review of permit applications, abandoned mine lands work, small operator assistance, etc.; make initial departmental decisions or recommendations on permit applications, bond release, enforcement actions, petitions to designate lands unsuitable, etc. The Env. Engineer will be the primary inspector under the program, as well as assisting and complementing the Geologist in the tasks enumerated above. When additional operations come on line (projected in FY 85), an additional engineer/scientist will be required to meet the inspection workload. The duties of the Land Management Officer will focus on compliance with public notice and public participation requirements, record keeping, and general review and response regarding different new responsibilities of the Department under this program (i.e., reviewing exploration permits and/or notice of intent). The Clerk-Typist will provide secretarial support.

B. Travel

The travel budget is composed largely of field inspections and field visits to coal development sites. Other travel funds would be spent on required meetings with operators and members of the public and other agency officials, and public hearings. There would also be investigation of potential abandoned mine reclamation and small operator assistance sites.

C. Contractual

The contractual category includes the abandoned mine land program development and projects (all federally-funded), small operator assistance laboratory work (all federally-funded), review of permit applications, laboratory work for inspections, legal counsel; and review of any petitions for designation of lands unsuitable for surface coal mining. Much of this work is speculative as it is based on projections about future development of the program.

D. Funding Sources

The federal government funds 50% of the basic cost of the state regulatory program. All small operator assistance contracts and abandoned mine land work are 100% federally funded. Funds in this category represent the return to the state of a portion of the 35¢ per ton reclamation fee levied against operators by the federal government. Substantially more funds should be available in this category after production begins on new coal operations. In addition, 100% federal funding is available to defray the costs of regulating any surface coal mining operation on federal lands. One of the projected future operations would qualify under this funding category.

COMMITTEE REPORT

SENATE

3/10/82

FURTHER: Finance

Date: MARCH 22, 1982

Mr. President:

The Committee on JUDICIARY has had SB 845
reinstatement of certain dissolved Alaska Native Claims Settlement Act
village corporations to corporate status

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- ^{my} do pass [] do not pass
[] do pass with attached amendments(s) [] same title
[] replace with CS for _____ [] new title
and recommends _____
[] AND attaches a "Letter of Intent" [] New Fiscal Note
[] reports it back without recommendation
[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

1 Nels A. Anderson Jr.
1 Charles H. ...

2 Bill Kay No REC

1 John J. Jolley
CHAIRMAN
DO PASS

Introduced: 3/10/82
Referred: Judiciary and
Finance

BY THE RULES COMMITTEE
BY REQUEST

1 IN THE SENATE

2 SENATE BILL NO. 845

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide for reinstatement of certain dis-
7 solved Alaska Native Claims Settlement Act village
8 corporations to corporate status."

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

10 * Section 1. AS 10.05.005 is amended by adding a new subsection to read:

11 (e)(1) Notwithstanding the provisions of AS 10.05.519(d), any vil-
12 lage corporation organized under the Alaska Native Claims Settlement Act
13 (P.L. 92-203; 85 Stat. 688) which has been involuntarily dissolved by
14 the commissioner under AS 10.05.519 and which has failed to apply for
15 reinstatement during the period prescribed by AS 10.05.519(d) may be
16 reinstated under AS 10.05.519(d) within one year of the effective date
17 of this legislation. Any such reinstated corporation shall have all of
18 the rights, privileges, liabilities and obligations that would have
19 applied to it if the corporation had never been dissolved, and all
20 corporate actions taken during the period of dissolution shall be deemed
21 to be as valid as if dissolution had never occurred.

22 (2) Any corporation formed by a Native village (as defined in P.L.
23 92-203) prior to the effective date of this legislation to replace any
24 involuntarily dissolved village corporation and having the same name as
25 the dissolved corporation shall, upon payment of any amounts that would
26 be required for the reinstatement of the dissolved corporation, succeed
27 to all of the rights, privileges, liabilities, and obligations that
28 would have applied to such dissolved corporation upon its reinstatement.
29

COMMITTEE COPY

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

SENATE BILL NO. 345

By THE RULES COMMITTEE BY REQUEST

"An Act to provide for reinstatement of certain dissolved Alaska Native Claims Settlement Act village corporations to corporate status."

Introduced in the Senate 3/10/1982

HISTORY IN THE SENATE

19 82

Read first time and referred to Committee on Judiciary and Finance

3 10

3 24

Reported back with *Judiciary* recommendation that *3 do pass, 1 no rec, to finance*

Read second time and

Read third time and

PASS **Effective Date**
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reconsideration

PASS **Effective Date**
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reported correctly engrossed
 Signed by President
 Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS **Effective Date**
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reconsideration

PASS **Effective Date**
 Yeas Yeas
 Nays Nays
 Absent Absent
 Excused Excused

Reported correctly engrossed
 Signed by Speaker
 Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Introduced: 3/10/82
Referred: Judiciary and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST

2 SENATE BILL NO. 845

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to provide for reinstatement of certain dis-
7 solved Alaska Native Claims Settlement Act village
8 corporations to corporate status."

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

10 * Section 1. AS 10.05.005 is amended by adding a new subsection to read:

11 (e)(1) Notwithstanding the provisions of AS 10.05.519(d), any vil-
12 lage corporation organized under the Alaska Native Claims Settlement Ac-
13 (P.L. 92-203; 85 Stat. 688) which has been involuntarily dissolved by
14 the commissioner under AS 10.05.519 and which has failed to apply for
15 reinstatement during the period prescribed by AS 10.05.519(d) may be
16 reinstated under AS 10.05.519(d) within one year of the effective date
17 of this legislation. Any such reinstated corporation shall have all of
18 the rights, privileges, liabilities and obligations that would have
19 applied to it if the corporation had never been dissolved, and all
20 corporate actions taken during the period of dissolution shall be deemed
21 to be as valid as if dissolution had never occurred.

22 (2) Any corporation formed by a Native village (as defined in P.L.
23 92-203) prior to the effective date of this legislation to replace any
24 involuntarily dissolved village corporation and having the same name as
25 the dissolved corporation shall, upon payment of any amounts that would
26 be required for the reinstatement of the dissolved corporation, succeed
27 to all of the rights, privileges, liabilities, and obligations that
28 would have applied to such dissolved corporation upon its reinstatement.

29
X

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 845 - An Act to provide for reinstatement of certain Title Alaska Native Claims Settlement Act Village Corps. to corporate status.
Requested by Rules Committee Date 3-16-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Corporations
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-				
200 TRAVEL	-0-	-0-				
300 CONTRACTUAL	-0-	-0-				
400 COMMODITIES	0	-0-				
500 EQUIPMENT	-0-	-0-				
600 LAND & STRUCTURES	-0-	-0-				
700 GRANTS, CLAIMS, ETC.	-0-	-0-				
TOTAL	-0-	-0-				

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-				
FEDERAL FUNDS	-0-	-0-				
OTHER (Specify Source)	-0-	-0-				

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE March 16, 1982

PREPARED BY Willis F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

Original: Legislative Finance
cc: Budget and Management

PHONE 465-2521

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)



Introduced: 3/11/82
Referred: Finance and
Judiciary

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 850

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for contingency distribution of
7 permanent fund income to voters of the state; and
8 providing for an effective date."

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

10 * Section 1. CONTINGENT DIVIDEND DISTRIBUTION. If the distribution of
11 permanent fund dividends provided in AS 43.23 is determined to be invalid by
12 a final decision of a court the money in the dividend fund (AS 43.23.050) on
13 the date of that determination shall be paid as permanent fund dividends
14 equally to each qualified voter who voted in the 1980 Alaska general election.

15 * Sec. 2. AS 43.23 is amended by adding a new section to read:

16 Sec. 43.23.110. PERMANENT FUND DIVIDENDS. (a) After the initial
17 payments to qualified voters who voted in the 1980 Alaska general
18 election, permanent fund dividends shall be paid two years after each
19 Alaska general election in equal amounts to each qualified voter who
20 voted in the general election.

21 (b) The commissioner of revenue shall prescribe and furnish an
22 application form for claiming dividends under this section.

23 (c) The commissioner of revenue may establish procedures for
24 paying permanent fund dividends under this section along with other
25 payments of money or state benefits.

26 (d) The amount of each permanent fund dividend payable under this
27 section is determined by dividing the amount of money in the dividend
28 fund (AS 43.23.050) by the number of eligible applicants.

29 * Sec. 3. This Act takes effect upon the date of a decision, if any, by

1 the United States Supreme Court that invalidates any provision of AS 43.23 or
2 secs. 1, 3, and 4, ch. 21, SLA 1980, as amended by sec. 1, ch. 60, SLA 1980.
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ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND... Session

SENATE BILL..... NO. 850...

By ...THE STATE AFFAIRS COMMITTEE

"An Act providing for contingency distribution of permanent fund income to voters of the state; and providing for an effective date."

Introduced in the Senate ...3/11/19...82

HISTORY IN THE SENATE

19 82

3 11

Read first time and referred to Committee on

Finance & Judiciary

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Introduced: 3/11/82
Referred: Finance and
Judiciary

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 850

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for contingency distribution of
7 permanent fund income to voters of the state; and
8 providing for an effective date."

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

10 * Section 1. CONTINGENT DIVIDEND DISTRIBUTION. If the distribution of
11 permanent fund dividends provided in AS 43.23 is determined to be invalid by
12 a final decision of a court the money in the dividend fund (AS 43.23.050) on
13 the date of that determination shall be paid as permanent fund dividends
14 equally to each qualified voter who voted in the 1980 Alaska general election.

15 * Sec. 2. AS 43.23 is amended by adding a new section to read:

16 Sec. 43.23.110. PERMANENT FUND DIVIDENDS. (a) After the initial
17 payments to qualified voters who voted in the 1980 Alaska general
18 election, permanent fund dividends shall be paid two years after each
19 Alaska general election in equal amounts to each qualified voter who
20 voted in the general election.

21 (b) The commissioner of revenue shall prescribe and furnish an
22 application form for claiming dividends under this section.

23 (c) The commissioner of revenue may establish procedures for
24 paying permanent fund dividends under this section along with other
25 payments of money or state benefits.

26 (d) The amount of each permanent fund dividend payable under this
27 section is determined by dividing the amount of money in the dividend
28 fund (AS 43.23.050) by the number of eligible applicants.

29 * Sec. 3. This Act takes effect upon the date of a decision, if any, by

1 the United States Supreme Court that invalidates any provision of AS 43.23 or
2 secs. 1, 3, and 4, ch. 21, SLA 1980, as amended by sec. 1, ch. 60, SLA 1980.

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COMMITTEE REPORT
SENATE

3/12/82

FURTHER: Finance

Date: _____

Mr. President:

The Committee on TRANSPORTATION has had SB 851
repealing statutes relating to capital projects funds

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

do pass do not pass

do pass with attached amendments(s)

replace with CS for SB 851 (Trsp) same title
 new title

and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bill Ray

John Gilman

John Patrick

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Ray
CHAIRMAN

Original sponsor: Rules/Legislative Budget
and Audit Committee

Offered: 4/7/82
Referred: Finance

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 851 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to budget procedures; repealing a
7 statute setting the time for legislative review of the
8 executive budget and repealing certain statutes relat-
9 ing to capital budgets and accounts."

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

11 * Section 1. AS 37.07.062, 37.07.070 and AS 44.42.080 are repealed.
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Introduced: 3/12/82
Referred: Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act repealing statutes relating to capital projects
7 funds."

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COMMITTEE COPY

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Introduced: 3/12/82
Referred: Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MAR 10 1982

BUDGET/AUDIT
COMMITTEE

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MRG* Gerald L. Wilkerson, CPA
for Legislative Auditor
Division of Legislative Audit

SUBJECT: Background Information Pertaining to
"An Act Repealing Statutes Relating to
Capital Projects Funds"

AS 44.42.080 essentially creates seven separate capital improvement project (CIP) funds. Enacted under Chapter 168, SLA 1978, this legislation was intended to provide changes in the accounting and reporting of CIP projects within DOTPF. However, the accounting and reporting aspects of this act have not been implemented due to non-standard accounting requirements and an Attorney General opinion questioning the legality and content of the act.

In addition, this concept conflicts with the presently established centralized accounting system and the theory of having consistent CIP reporting standards.

AS 37.07.062 outlines reporting requirements for the seven funds mentioned above.

Attachment

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

SENATE BILL NO. 851

By RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

"An Act repealing statutes relating to capital projects funds."

Introduced in the Senate 3/12, 1982

HISTORY IN THE SENATE

19	82	Read first time and referred to Committee on										
3	12	TRSP - FIN										
4	7	Reported back with recommendation that <i>replace w/c 5, new title, 3 do pass, to finance</i>										
		Read second time and										
		Read third time and										
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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Yeas	Yeas											
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Excused	Excused											
		Reconsideration										
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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Absent	Absent											
Excused	Excused											
		Reported correctly engrossed										
		Signed by President										
		Sent to House										
SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

19		Read first time and referred to Committee on										
		Reported back with recommendation that										
		Read second time and										
		Read third time and										
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		Reported correctly engrossed										
		Signed by Speaker										
		Returned to Senate										
CHIEF CLERK OF THE HOUSE												

HISTORY IN THE SENATE

19		Received from House
		To enrolling
		Reported correctly enrolled
		Sent to Governor
	 by Governor
		Filed with Lt. Governor
		Chapter No.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MAR 10 1982

BUDGET/AUDIT
COMMITTEE

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MR 4* Gerald L. Wilkerson, CPA
for Legislative Auditor
Division of Legislative Audit

SUBJECT: Background Information Pertaining to
"An Act Repealing Statutes Relating to
Capital Projects Funds"

AS 44.42.080 essentially creates seven separate capital improvement project (CIP) funds. Enacted under Chapter 168, SLA 1978, this legislation was intended to provide changes in the accounting and reporting of CIP projects within DOTPF. However, the accounting and reporting aspects of this act have not been implemented due to non-standard accounting requirements and an Attorney General opinion questioning the legality and content of the act.

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AS 37.07.062 outlines reporting requirements for the seven funds mentioned above.

Attachment

Original sponsor: Rules/Legislative Budget
and Audit Committee

Offered: 4/7/82
Referred: Finance

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2

CS FOR SENATE BILL NO. 851 (Transportation)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to budget procedures; repealing a
7 statute setting the time for legislative review of the
8 executive budget and repealing certain statutes relat-
9 ing to capital budgets and accounts."

10

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

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* Section 1. AS 37.07.062, 37.07.070 and AS 44.42.080 are repealed.

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Introduced: 3/12/82
Referred: Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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Introduced: 3/12/82
Referred: Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 853

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the loan program for Alaska Native
7 Claims Settlement Act, P.L. 92-203, corporations; and
8 providing for an effective date."

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

10 * Section 1. AS 44.25.030 - 44.25.038 are repealed.

11 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
12 070(c).

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

SENATE BILL..... NO. 853...

By ..THE RULES COMMITTEE BY...
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

"An Act repealing the loan program for Alaska Native Claims Settlement Act, P.L. 92-203, corporations; and providing for an effective date."

Introduced in the Senate ..3/12/, 19..82

HISTORY IN THE SENATE

19 82 Read first time and referred to Committee on

3 12 FIN

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration
PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 Read first time and referred to Committee on

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Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19 Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MARCH 10 1982BUDGET/AUDIT
COMMITTEE

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MAR 9* Gerald L. Wilkerson, CPA
JLW Legislative Auditor
Division of Legislative Audit

SUBJECT: Background Information Pertaining to
"An Act Repealing the Loan Program for
Alaska Native Claims Settlement Act,
P.L. 92-203, Corporations"

The purpose of this loan program was to provide loans to facilitate the creation and organization of the 12 regional corporations designated by the Alaska Native Claims Settlement Act.

The program has never made a loan and is inoperative due to statutory requirements that no loan can be made after October 4, 1977.

Attachment

12-2501
Asper ✓

RECEIVED
FEB 10 1962

LEGISLATIVE
BUDGET
COMMITTEE

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 853

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the loan program for Alaska Native
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12 070(c).

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STATE OF ALASKA

Audit Control Number
04-012-0014-R

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

November 23, 1981

Members of the
Legislative Budget and Audit Committee:

This letter constitutes our report on the Native Corporation Loan Program, Department of Revenue for the fiscal year ended June 30, 1981.

The purpose of the review was to determine the compliance by the Department of Revenue with applicable State statutes and regulations governing the fiscal activities of the Fund.

ORGANIZATION AND BACKGROUND

The purpose of the loan program was to provide loans to facilitate the creation and organization of the 12 regional corporations designated by the Alaska Native Claims Settlement Act.

The Department of Revenue administers the program. Loans may not exceed \$250,000 at 5.9% interest for 5 years.

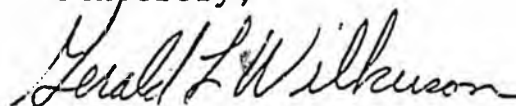
FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Legislature should repeal the Native Corporation Loan Program (AS 44.25.030-038) since the program is no longer needed.

The program has never made a loan and is inoperative due to statutory requirements that no loan can be made after October 4, 1977.

Sincerely,



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 14, 1982

RECEIVED

JAN 14 1982

LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Legislative Budget & Audit Committee
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Re: Loan Programs Review, your letter, December 21, 1981

Dear Mr. Wilkerson:


This is in response to your inquiry as to the activity and funding of the:

1. Native Corporation Loan Program, AS 44.25.030
2. Capital City Revolving Loan Fund, AS 44.07.160
3. Relocation Planning Loans, AS 34.60.135

To our knowledge, none of the above programs have been funded and are inactive. Any future activity or use of these funds is unknown either because:

1. The issue no longer exists (as in the case of the Native Corporation Loan Program as the State's obligation has been paid under the Native Claims Settlement Act);
2. No appropriation has been made (e.g., the Capital City Revolving Loan Fund); or
3. State agencies have not requested such loans to be made (e.g., Relocation Planning Loans).

Sincerely,



Thomas K. Williams
Commissioner of Revenue

TKW:AS:m11

and custody of state revenues, which are only incidental to the regulation and management of the fish and game resources of the State of Alaska, at present performed by the Department of Fish and Game, are transferred to the Department of Revenue.

"2. The Department of Revenue shall be deemed and held to constitute a continuation of the Department of Fish and Game with the same force and effect, as to the transferred functions, powers and duties as if the functions, powers and duties had not been transferred.

"3. All funds appropriated to the Department of Fish and Game prior to the

transfer of those functions, powers and duties attributable to the transferred functions, powers and duties are transferred to appropriate line items in the appropriation of the Department of Revenue.

"4. This order shall become effective at a date hereafter to be designated.

"Dated November 24, 1961."

Effect of amendment. — The 1977 amendment inserted "other than vessel licenses under AS 16.05.490 — 16.05.530" and "other than revenues from vessel licenses under AS 16.05.490 — 16.05.530" in paragraph (2).

Article 2. Loan Program; P.L. 92-203 Corporations.

Section

- 30. Declaration of purpose
- 32. Loans
- 34. Limitation on loans

Section

- 36. Repayment of loans
- 38. Expiration of loan program

Cross reference. — As to assumption and payment of organizational expenses incurred by regional corporations, see § 4,

ch. 193, SLA 1972, Temporary and Special Acts and Resolutions, 1972.

Sec. 44.25.030. Declaration of purpose. It is the purpose of AS 44.25.030 — 44.25.038 to make loans available to promote and facilitate the creation and organization by the 12 existing regional Alaska Native associations of the 12 regional corporations required under § 7 of the Alaska Native Claims Settlement Act, P.L. 92-203, the creation of which is a condition precedent to the receipt of payments from the Alaska Native Fund. (§ 1 ch 190 SLA 1972)

Sec. 44.25.032. Loans. Upon proper application by an existing regional Native association or corporation listed in § 7, P.L. 92-203, the Department of Revenue shall make a loan to the regional association or corporation for the purpose of organizing or operating a regional corporation. (§ 1 ch 190 SLA 1972)

Sec. 44.25.034. Limitation on loans. (a) The amount of an organizational loan provided for under AS 44.25.030 — 44.25.038 shall be determined by the Department of Revenue but may not exceed \$250,000 per region.

(b) A loan may not run longer than five years nor bear a rate of interest that exceeds 5.9 per cent. (§ 1 ch 190 SLA 1972)

Legislative history report. — For report on ch. 190, SLA 1972 (CSHB 499 am), see 1972 House Journal, p. 744.

Sec. 44.25.036. Repayment of loans. Repayment of loans under AS 44.25.030 — 44.25.038 shall be on an annual basis with repayment commencing no later than 90 days after receipt of funds authorized to be appropriated from the Alaska Native Fund to the regional corporation under § 6(a) (1) (A), P.L. 92-203. (§ 1 ch 190 SLA 1972)

Sec. 44.25.038. Expiration of loan program. Because the purposes for which the loan program is created are limited, no loan may be made after five years from October 4, 1972. The program shall be inoperative 10 years from October 4, 1972. (§ 1 ch 190 SLA 1972)

Chapter 27. Department of Education.

Article

1. Board and Department of Education (§§ 44.27.010 — 44.27.020)
2. Alaska State Council on the Arts (§§ 44.27.040 — 44.27.060)
3. Alaska Historical Commission (§§ 44.27.061 — 44.27.076)

Article 1. Board and Department of Education.

Section

10. Board and commissioner of education
20. Duties of department

Sec. 44.27.010. Board and commissioner of education. There is at the head of the Department of Education a Board of Education. The commissioner of education is the principal executive officer of the department. (§ 11 ch 64 SLA 1959; am § 12 ch 96 SLA 1967)

Am. Jur. 2d references. — 63 Am. Jur. 2d, States, Territories and Public Officers and Employees, § 371; 68 Am. Jur. 2d, Schools, §§ 37 — 55; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62.

Sec. 44.27.020. Duties of department. The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education;

(2) administer the historical library;

(3) plan, finance and operate related school and educational activities and facilities. (§ 11 ch 64 SLA 1959; am § 77 ch 69 SLA 1970; am § 5 ch 86 SLA 1979)

Introduced: 3/12/82
Referred: Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 853

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the loan program for Alaska Native
7 Claims Settlement Act, P.L. 92-203, corporations; and
8 providing for an effective date."

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11 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
12 070(c).

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Introduced: 3/12/82
Referred: State Affairs and
Financed

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 854

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act abolishing the Alaska economic disaster impact
7 fund; and providing for an effective date."

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

9 * Section 1. AS 37.11.100 is repealed.

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21 extent set out in the proclamation.

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
23 070(c).

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MARCH 10 1982

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *MRG* Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

BUDGET/AUDIT
COMMITTEE

SUBJECT: Background Information Pertaining to
"An Act Abolishing the Alaska Economic
Disaster Impact Fund"

Alaska Statute 37.11.100 established the Alaska Economic Disaster Impact Fund in 1976. The Fund provides grants or makes loans to communities designated as economic disaster areas by either gubernatorial proclamation under AS 44.33.285 or consultation between the Department of Community and Regional Affairs and the Department of Fish and Game if the disaster is due to a fisheries failure.

The Fund has never received an appropriation. In order to receive money in the Fund, legislative action is required for funding an economic disaster. That action can be taken with or without AS 37.11.100.

The amendment to AS 44.33.285 will provide for a direct appropriation rather than utilization of the Fund.

Attachment

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND. Session

SENATE ..bill..... NO. 854...

By ..THE RULES COMMITTEE BY...
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

"An Act abolishing the Alaska economic disaster impact fund; and providing for an effective date."

Introduced in the Senate ...3/12..., 19...82

HISTORY IN THE SENATE

1982		Read first time and referred to Committee on
3	12	SA
3	18	FIN
		Reported back with <i>the same</i> recommendation that <i>to die</i>
		Read second time and
		Read third time and
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reconsideration
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reported correctly engrossed
		Signed by President
		Sent to House
SECRETARY OF THE SENATE		

HISTORY IN THE HOUSE

19		Read first time and referred to Committee on
		Reported back with recommendation that
		Read second time and
		Read third time and
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reconsideration
		PASS Effective Date
		Yeas Yeas
		Nays Nays
		Absent Absent
		Excused Excused
		Reported correctly engrossed
		Signed by Speaker
		Returned to Senate
CHIEF CLERK OF THE HOUSE		

HISTORY IN THE SENATE

19		Received from House
		To enrolling
		Reported correctly enrolled
		Sent to Governor
	 by Governor
		Filed with Lt. Governor
		Chapter No.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

5B 854
AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

March 9, 1982

RECEIVED
MARCH 10 1982

TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

FROM: *M.R.G.* Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

BUDGET/AUDIT
COMMITTEE

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Attachment

RECEIVED

FEB 10 1982

LEGISLATIVE
ADMIN

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 854

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

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STATE OF ALASKA

Audit Control Number
08-012-0012-R

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

November 30, 1981

Members of the
Legislative Budget and Audit Committee:

This letter constitutes our report on the Alaska Economic Disaster Impact Fund, Department of Commerce and Economic Development, for the fiscal year ended June 30, 1981.

The purpose of our review was to determine the compliance by the Department of Commerce and Economic Development with applicable State statutes and regulations governing the fiscal activities of the Fund.

ORGANIZATION AND BACKGROUND

Alaska Statute 37.11.100 established the Alaska Economic Disaster Impact Fund in 1976. The Fund provides grants or makes loans to communities designated as economic disaster areas by either gubernatorial proclamation under AS 44.33.285 or consultation between the Department of Community and Regional Affairs and the Department of Fish and Game if the disaster is due to a fisheries failure.

The Fund may not exceed \$5,000,000. The Commissioner of the Department of Revenue may invest funds that he considers in excess of anticipated demand.

FINDINGS AND RECOMMENDATIONS

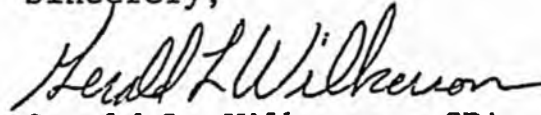
Recommendation No. 1

The Legislature should evaluate the need for the Alaska Economic Disaster Impact Fund.

The Alaska Economic Disaster Impact Fund (AS 37.11) was created in 1976 and has never received an appropriation. In order for a community to receive funds, the Governor must

declare a community an economic disaster area. Funds then must be appropriated by the Legislature. Since this statute requires legislative action for funding an economic disaster, it can be accomplished with or without the existing legislation. The Legislature can appropriate funds for a specific disaster and accomplish the same purpose.

Sincerely,

A handwritten signature in cursive script that reads "Gerald L. Wilkerson".

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

January 12, 1982

RECEIVED

JAN 12 1982

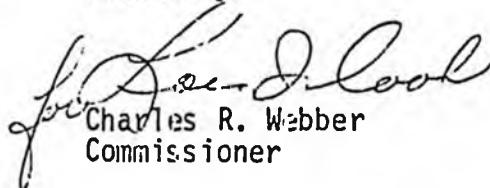
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

I have reviewed your preliminary report on the Alaska Economic Disaster Impact Fund dated November 30, 1981. I agree with Recommendation No. 1 of your findings and recommendations. The program is inactive and can be handled in a more efficient manner; it should be repealed from Alaska Statutes.

Sincerely,


Charles R. Webber
Commissioner

CRW/wfs 2/23

resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment designated provisions of this section as subsection (a), substituted "investment fund" for "permanent fund" in the first sentence of subsection (a), rewrote the second sentence of subsection (a), and added subsection (b).

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "investment fund" for "permanent fund."

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Article 3. Alaska Economic Disaster Impact Fund.

Section

100. Alaska economic disaster impact fund

Sec. 37.11.100. Alaska economic disaster impact fund. (a) There is established a separate fund known as the Alaska economic disaster impact fund which shall be administered by the Department of Commerce and Economic Development. Funds designated in this section and apportioned by statute for deposit in the Alaska economic disaster impact fund are for grants or loans to assist economically impacted communities within areas designated by a proclamation under AS 44.33.285. The Department of Community and Regional Affairs, in

consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285. (§ 9 ch 277 SLA 1976)

Chapter 12. Alaska Renewable Resources Corporation.

Section	Section
10. Alaska renewable resources corporation created	70. Powers
15. Purposes	75. Duties
20. Allocation	80. Financial assistance
25. Board of trustees	85. Eligibility for financial assistance
30. Composition of the board of trustees	90. Reports and publications
35. Term of office	95. Budget and appropriations
40. Removal and vacancies	100. Annual audit
45. Qualifications of board members	105. Cooperation with other agencies
50. Quorum	110. Tax exemption
55. Compensation of board members	115. Technical assistance
60. Employment of personnel	120. Public access to information
65. Conflicts of interest	125. Definitions

Cross references. — As to the Alaska Renewable Resources Investment Fund, see AS 37.11.050 et seq. As to termination of the Alaska Renewable Resources Corporation, see AS 44.66.010.

Editor's note. — Section 1, ch. 179, SLA 1978, provides: **DECLARATION OF POLICY.** It is the policy of the state to

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 854
 Title An Act abolishing the Alaska economic disaster impact fund
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Commerce and Economic Development
 Program Category Affected Administration
 BRU, Program, Or Subprogram(s) Affected Economic Enterprise
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Source)		0				

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE April 9, 1982 PREPARED BY Lois Cook 
 AGENCY Commerce and Economic Development

Original: Legislative Finance PHONE 465-2505

cc: Budget and Management
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Introduced: 3/12/82
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

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March 9, 1982

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TO: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

BUDGET/AUDIT
COMMITTEE

FROM: *MR. RQ*
Gerald L. Wilkerson, CPA
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