

LEG. FINANCE - BILLS 1983 - 1984 2040  
SB 152 - CSSB 161 2040

COMMITTEE REPORT  
SENATE

2/25/83

FURTHER:

Date: 3/4/83

Mr. President:

The Committee on Finance has had SB 152

Merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and eff. date.

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 152 (Finance)  same title  
 new title
- and recommends DO PASS
- 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:

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Bob M... ..

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CHAIRMAN

Original sponsor: Finance Committee

1 IN THE SENATE.

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 152 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the budget of the state and bills  
7 related to the budget and merging the division of  
8 budget and management, the division of policy devel-  
9 opment and planning, and the latter's office of  
10 coastal management into one office; and providing for  
11 an effective date."

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

13 \* Section 1. PURPOSE AND INTENT. (a) It is the purpose of this Act,  
14 in the best interests of efficient administration and state planning, to  
15 merge the division of budget and management, the division of policy devel-  
16 opment and planning, and the latter's office of coastal management, includ-  
17 ing both capital and operating expenditures, into one office.

18 (b) It is the intent of the legislature that the powers conferred by  
19 this Act be exercised by the executive branch and its agencies, divisions,  
20 and departments, in cooperation with the legislature and its committees.

21 \* Sec. 2. AS 24.20.231(4) is amended to read:

22 (4) cooperate with the office of management and budget  
23 [DIVISION OF BUDGET AND MANAGEMENT] in establishing a comprehensive  
24 system for state budgeting and financial management as set out in the  
25 Executive Budget Act (AS 37.07);

26 \* Sec. 3. AS 24.30.035 is amended to read:

27 Sec. 24.30.035. FISCAL NOTES ON BILLS. (a) Before a bill or  
28 resolution, except an appropriation bill, is reported from the commit-  
29 tee of first referral, there shall be attached to the bill a fiscal

# **CORRECTION**

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

Original sponsor: Finance Committee

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29 tee of first referral, there shall be attached to the bill a fiscal

1 note containing an estimate of the amount of the appropriation in-  
2 crease or decrease which would result from enactment of the bill for  
3 the current [ENSUING] fiscal year and <sup>delete</sup> ~~at least five~~ [TWO] succeeding  
4 fiscal years or, if the bill has no fiscal impact, a statement to that  
5 effect shall be attached. The fiscal note or statement shall be  
6 prepared by the office of management and budget in conformity with the  
7 requirements of this section [DEPARTMENT OR DEPARTMENTS AFFECTED].  
8 The fiscal note or statement shall be delivered to the committee  
9 requesting it within five days of the request or within two days if  
10 the request is made after the 90th day of a regular session, or during  
11 a special session of the legislature. If the bill is presented by the  
12 governor for introduction in accordance with AS 24.30.060(b) and the  
13 uniform rules of the legislature, the fiscal note or statement shall  
14 be attached to the bill before the bill is introduced. An amendment  
15 or a substitute bill proposed by a committee of referral that changes  
16 the fiscal impact of a bill shall be explained in a revised fiscal  
17 note or statement attached to the bill.

18 \* Sec. 4. AS 24.30.035 is amended by adding new subsections to read:

19 (b) In addition to the fiscal note required by this section, the  
20 sponsor of a bill or resolution may prepare a fiscal note in conform-  
21 ity with the requirements of this section and submit it to the commit-  
22 tee of first referral or the finance committee. A committee may  
23 prepare an additional fiscal note in conformity with the requirements  
24 of this section.

25 (c) A fiscal note for a bill or resolution must contain the  
26 following information:

- 27 (1) the fiscal impact on existing programs;  
28 (2) the fiscal impact of new programs or activities;  
29 (3) a line item detail of the fiscal impact;

1 (4) the source of funds expected to be utilized by general  
2 fund source, federal fund source, or other identified source;

3 (5) the number of new positions which may be required,  
4 identified as full-time, part-time, or temporary;

5 (6) an analysis of how the figures in the fiscal note were  
6 derived;

7 (7) additional information necessary to explain the fiscal  
8 note;

9 (8) a fiscal impact projection for the first year in which  
10 expenditures will be required and for the succeeding five fiscal  
11 years; and

12 (9) formal information consisting of

13 (A) the bill or resolution number,

14 (B) the name of the prime sponsors,

15 (C) the date the fiscal note was prepared,

16 (D) the name of the committee requesting the fiscal  
17 note,

18 (E) the name and phone number of the person who pre-  
19 pared the fiscal note, and

20 (F) the budget request unit, program, or subprogram  
21 affected.

22 (d) The original of a fiscal note shall be submitted to the  
23 Division of Legislative Finance and copies shall be sent to the prime  
24 sponsor, the committee requesting the fiscal note, and the office of  
25 management and budget.

26 \* Sec. 5. AS 37.07.040 is amended to read:

27 Sec. 37.07.040. OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF  
28 BUDGET AND MANAGEMENT]. The Alaska office of management and budget  
29 [BUDGET AND MANAGEMENT DIVISION] shall

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(1) assist the governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of state agency goals and objectives, plans, and budget requests;

(2) prepare for submission to the governor an annually updated six-year capital improvements program and the proposed capital improvements budget for the coming fiscal year, the latter to include individual project justification with documentation of estimated project cost;

(3) develop procedures to produce the information needed for effective policy decision making, including procedures to provide for the dissemination of information about plans, programs, and budget requests to be included in the annual budget and opportunity for public review and comment during the period of budget preparation;

(4) assist state agencies in their statement of goals and objectives, preparation of plans, budget requests, and reporting of program performance; all documents forwarded by the office [DIVISION] to a state agency containing instructions for the preparation of program plans and budget requests and the reporting of program performance are public information after the date they are forwarded;

(5) administer its responsibilities under the program execution provisions of this chapter so that the policy decisions and budget determinations of the governor and the legislature are implemented;

(6) provide the legislative finance division with the budget information it may request;

(7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in January of each year, except that following a gubernatorial election

1 year the advance copy shall be provided by the second Monday in  
2 January.

3 \* Sec. 6. AS 37.07.040 is amended by adding new paragraphs to read:

4 *Joseph* *sim* *bring* (8) ~~prepare the proposed capital improvements budget for~~  
5 *approved* ~~the coming fiscal year evaluating both state and local requests based~~  
6 *see* ~~on recognition that need for a project that cannot feasibly be pro-~~  
7 *back* ~~vided by a local government unit. *Fischer* *ultimately* *priority* ~~Atakes priority over considerations~~  
8 *bill* ~~such as population, local financial match, federal funds being used~~  
9 ~~for local match, or maintenance and operations cost of a facility if a~~  
10 ~~municipality or unincorporated community accepts the facility and all~~  
11 ~~associated costs of the facility;~~~~

12 (9) promulgate regulations consistent with this section in  
13 accordance with AS 44.62 no later than August 1, 1983.

14 \* Sec. 7. AS 37.07.070(1) is amended to read:

15 (1) Requests by the governor for supplemental appropria-  
16 tions for state agency operating *and capital* budgets for the current fiscal year  
17 may be introduced by the rules committee only through the 30th [45TH]  
18 legislative day.

19 \* Sec. 8. AS 37.07.070(2) is amended to read:

20 (2) Requests by the governor for budget amendments to state  
21 agency budgets for the budget fiscal year may be received and reviewed  
22 by the finance committees only through the 60th [75TH] legislative  
23 day.

24 \* Sec. 9. AS 37.07.080(b) is amended to read:

25 (b) Each state agency shall prepare an annual plan for the  
26 operation of each of its assigned programs except for programs that  
27 are exempted from this requirement by the office [DIVISION]. The  
28 operations plan shall be prepared in the form and content and be  
29 transmitted on the date prescribed by the office [DIVISION].

1 \* Sec. 10. AS 37.07.080(c) is amended to read:

2 (c) The office [DIVISION] shall

3 (1) review each operations plan to determine that it is  
4 consistent with the policy decisions of the governor and appropria-  
5 tions by the legislature, that it reflects proper planning and effi-  
6 cient management methods, that appropriations have been made for the  
7 planned purpose and will not be exhausted before the end of the fiscal  
8 year;

9 (2) approve the operations plan if satisfied that it meets  
10 the requirements under (1) of this subsection; otherwise, the office  
11 [DIVISION] shall require revision of the operations plan in whole or  
12 in part;

13 (3) Repealed by sec. 1 ch 26 SLA 1976.

14 \* Sec. 11. AS 37.07.080(e) is amended to read:

15 (e) Transfers or changes between objects of expenditures or be-  
16 tween allocations may be made by the head of a state agency upon ap-  
17 proval of the office [DIVISION]. No transfers may be made between ap-  
18 propriations except as provided in an act making the transfers between  
19 appropriations.

20 \* Sec. 12. AS 37.07.080(f) is amended to read:

21 (f) The office [DIVISION] shall report quarterly to the governor  
22 and the legislature on the operations of each state agency, relating  
23 actual accomplishments to those planned and modifying, if necessary,  
24 the operations plan of any agency for the balance of the fiscal year.

25 \* Sec. 13. AS 37.07.100 is amended to read:

26 Sec. 37.07.100. PROPOSED SUPPLEMENTAL OR SPECIAL [DEFICIENCY]  
27 APPROPRIATIONS. The governor from time to time may transmit to the  
28 legislature proposed supplemental or special [DEFICIENCY] appropria-  
29 tions in accordance with AS 37.07.070 which in the governor's [HIS]

1 judgment are necessary [ON ACCOUNT OF LAWS ENACTED AFTER THE TRANS-  
2 MISSION OF THE BUDGET, OR ARE OTHERWISE IN THE PUBLIC INTEREST].  
3 However, if the governor finds that an emergency situation necessi-  
4 tates the proposal of supplemental or special appropriations, the  
5 governor may transmit them to the legislature at any time. The gover-  
6 nor [HE] shall accompany each proposal with a statement of the reasons  
7 for it, including the reasons for its omission from the budget.

8 \* Sec. 14. AS 37.07.120 is amended by adding a new paragraph to read:

9 (6) "office" means the Alaska office of management and  
10 budget established in the Office of the Governor by AS 44.19.141.

11 \* Sec. 15. AS 44.19.141 is amended to read:

12 ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
13 OF POLICY DEVELOPMENT AND PLANNING].

14 Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
15 OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the  
16 Governor the Alaska office of management and budget [DIVISION OF  
17 POLICY DEVELOPMENT AND PLANNING].

18 \* Sec. 16. AS 44.19.142 is amended to read:

19 Sec. 44.19.142. DIRECTOR. The office of management and budget  
20 [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a di-  
21 rector who is appointed by, and serves at the pleasure of, the gover-  
22 nor.

23 \* Sec. 17. AS 44.19.143 is amended to read:

24 Sec. 44.19.143. PERSONNEL. The director shall employ such per-  
25 sonnel as may be necessary to carry out the provisions of AS 44.19.-  
26 141 - 44.19.152 and the relevant provisions of AS 37.07.

27 \* Sec. 18. AS 44.19.144(a) is amended to read:

28 (a) The director shall

29 (1) supervise and administer the activities of the office

1 [DIVISION];

2 (2) advise the governor on matters of comprehensive state  
3 planning;

4 (3) make an annual report to the governor of the activities  
5 of the office [DIVISION].

6 \* Sec. 19. AS 44.19.144(b)(3) is amended to read:

7 (3) on behalf of the state, accept and expend any gifts or  
8 grants made to the state with the approval of the governor where such  
9 gifts or grants were made for the purposes of furthering the objec-  
10 tives of the office [DIVISION].

11 \* Sec. 20. AS 44.19.145 is amended to read:

12 Sec. 44.19.145. FUNCTIONS AND DUTIES OF THE OFFICE [DIVISION].

13 (a) The office [DIVISION] shall

14 (1) provide technical assistance to the governor and the  
15 legislature in identifying long range goals and objectives for the  
16 state and its political subdivisions;

17 (2) prepare and maintain a state comprehensive development  
18 plan;

19 (3) provide information and assistance to state agencies to  
20 aid in governmental coordination and unity in the preparation of agen-  
21 cy plans and programs;

22 (4) review planning within state government as may be nec-  
23 essary for receipt of federal, state or other funds;

24 (5) Repealed.

25 (6) participate with other countries, provinces, states or  
26 subdivisions of them [THEREOF] in international or interstate plan-  
27 ning, and assist Alaska's local governments, governmental conferences  
28 and councils, in planning and coordinating their activities;

29 (7) Repealed.

1 (8) encourage educational and research programs that fur-  
2 ther state planning and development, and provide administrative and  
3 technical services for them;

4 (9) publish such statistical information or other documen-  
5 tary material as will further the provisions and intent of AS 44.19.-  
6 141 - 44.19.152;

7 (10) assist the governor and the Department of Community and  
8 Regional Affairs in coordinating the activities of state agencies  
9 which have an impact on the solution of local and regional development  
10 problems;

11 (11) serve as a clearinghouse for information, data, and  
12 other materials which may be helpful or necessary to federal, state or  
13 local governmental agencies in discharging their respective responsi-  
14 bilities or in obtaining federal or state financial or technical as-  
15 sistance;

16 (12) review all proposals for the location of capital im-  
17 provements by any state agency and advise and make recommendations  
18 concerning location of these capital improvements;

19 (13) review and comment on federal consistency determina-  
20 tions and certifications authorized by sec. 307 of the Coastal Zone  
21 Management Act of 1972, as amended, 16 U.S.C. sec. 1456, and the state  
22 coastal management program.

23 (b) The office [DIVISION] shall, in carrying out its functions,  
24 consult with local, regional, state and federal officials, private  
25 groups and individuals, and with officials[,] of other countries,  
26 provinces and states, and may hold public hearings to obtain informa-  
27 tion for the purpose of carrying out the provisions of AS 44.19.141 -  
28 44.19.152.

29 (c) The governor may establish coordinating or advisory planning

1 groups.

2 (d) The office [DIVISION] shall

3 (1) coordinate its services and activities with those of  
4 other state departments and agencies to the fullest extent possible to  
5 avoid duplication;

6 (2) prepare an integrated annual report on the long-range  
7 development program of the state and submit it to the governor for in-  
8 corporation into the governor's [HIS] report to the legislature;

9 (3) cooperate with the University of Alaska and other ap-  
10 propriate public and private institutions in research and investiga-  
11 tions.

12 \* Sec. 21. AS 44.19.152 is amended to read:

13 Sec. 44.19.152. DEFINITIONS. In AS 44.19.141 - 44.19.152,

14 (1) ["DIVISION" MEANS THE DIVISION OF POLICY DEVELOPMENT  
15 AND PLANNING;]

16 (2) "director" means the director of the office of manage-  
17 ment and budget; [DIVISION OF POLICY DEVELOPMENT AND PLANNING.]

18 (3) "office" means the Alaska office of management and bud-  
19 get.

20 \* Sec. 22. AS 44.19.155(a)(2)(A) is amended to read:

21 (A) the director of the office of management and bud-  
22 get [DIVISION OF POLICY DEVELOPMENT AND PLANNING];

23 \* Sec. 23. AS 44.19.155(d) is amended to read:

24 (d) Each member of the council shall select one person to serve  
25 as a permanent alternate at meetings of the council. If a member of  
26 the council is unable to attend, the member [HE] shall advise the  
27 alternate who may attend and act in the place of the member. The  
28 alternate for a public member appointed after July 9, 1978 under  
29 (a)(1) of this section shall, at the time of the attendant's [HIS]

1 designation and throughout the period of [HIS] service as a permanent  
2 alternate, be the mayor or member of the assembly or council of a  
3 municipality within the region from which the permanent member is  
4 appointed. The alternate for the director of the office of management  
5 and budget, serving under (a)(2)(A) of this section, shall be the  
6 director's designee within that office. The alternate for a designat-  
7 ed member serving under (a)(2)(B) - (G) of this section shall be a  
8 deputy commissioner of the department or the director of a division in  
9 the department. The names of alternates shall be filed with the  
10 council.

11 \* Sec. 24. AS 44.19.162 is amended to read:

12 Sec. 44.19.162. COUNCIL STAFF. The council shall use [UTILIZE]  
13 the staff of the office of coastal management within the office of  
14 management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING] in  
15 discharging its powers and duties. The coordinator of the office of  
16 coastal management, under the direction of the council co-chair who is  
17 selected from among the members designated in AS 44.19.155(a)(2) [,  
18 WITH THE CONCURRENCE OF THE COUNCIL], may contract with or employ per-  
19 sonnel or consultants the coordinator [HE] considers necessary to  
20 carry out the powers and duties of the council.

21 \* Sec. 25. AS 44.83.030(2) is amended to read:

22 (2) the director of the office of [DIVISION OF BUDGET AND]  
23 management and budget, or the director's designee within that office,  
24 and three commissioners of principal executive departments appointed  
25 by the governor.

26 \* Sec. 26. TRANSITION. All litigation, hearings, investigations and  
27 other proceedings pending under a law amended or repealed by this Act, or  
28 in connection with functions transferred by this Act, continue in effect  
29 and may be continued and completed notwithstanding a transfer or amendment

1 or repeal provided for in this Act. Certificates, orders, and regulations  
2 issued or adopted under authority of a law amended or repealed by this Act  
3 remain in effect for the term issued, or until revoked, vacated, or other-  
4 wise modified under the provisions of this Act. All contracts, rights,  
5 liabilities, and obligations created by or under a law amended or repealed  
6 by this Act, and in effect on the effective date of this Act, remain in  
7 effect notwithstanding this Act's taking effect. Records, equipment, and  
8 other property of agencies of the state whose functions are transferred  
9 under this Act shall be transferred commensurate with the provisions of  
10 this Act.

11 \* Sec. 27. NAME CHANGE. To be consistent with the changes made by this  
12 Act, wherever in the Alaska Statutes and in regulations adopted under those  
13 statutes "division of budget and management" and "division of policy devel-  
14 opment and planning," and other terms identifying those divisions, are  
15 used, they must be read as referring to the office of management and bud-  
16 get. Similarly, references to the directors of those divisions must be  
17 read as references to the director of the office of management and budget.  
18 Under AS 01.05.031, the revisor of statutes shall implement this section in  
19 the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall  
20 implement this section in the administrative regulations.

21 \* Sec. 28. This Act takes effect immediately in accordance with AS 01.-  
22 10.070(c).  
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Introduced: 2/25/83  
Referred: Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

SENATE BILL NO. 152

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act merging the division of budget and manage-  
7 ment, the division of policy development and plan-  
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18 this Act be exercised by the executive branch and its agencies, divisions,  
19 and departments, in cooperation with the legislature and its committees.

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29 mate of the amount of the appropriation increase or decrease which

1 would result from enactment of the bill for the ensuing fiscal year  
2 and at least five [TWO] succeeding fiscal years or, if the bill has no  
3 fiscal impact, a statement to that effect shall be attached. The  
4 fiscal note or statement shall be prepared by the office of management  
5 and budget in conformity with the format adopted by the legislature  
6 [DEPARTMENT OR DEPARTMENTS AFFECTED]. If the bill is presented by the  
7 governor for introduction in accordance with AS 24.30.060(b) and the  
8 uniform rules of the legislature, the fiscal note or statement shall  
9 be attached to the bill before the bill is introduced. An amendment  
10 or a substitute bill proposed by a committee of referral that changes  
11 the fiscal impact of a bill shall be explained in a revised fiscal  
12 note or statement attached to the bill. A fiscal note prepared by a  
13 department or agency is considered to be approved by the office of  
14 management and budget if not objected to by the office of management  
15 and budget within five days after it is submitted to the committee of  
16 first referral.

17 \* Sec. 4. AS 37.07.040 is amended to read:

18 Sec. 37.07.040. OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF  
19 BUDGET AND MANAGEMENT]. The Alaska office of management and budget  
20 [BUDGET AND MANAGEMENT DIVISION] shall

21 (1) assist the governor in the preparation and explanation  
22 of the proposed comprehensive program and financial plan, including  
23 the coordination and analysis of state agency goals and objectives,  
24 plans, and budget requests;

25 (2) prepare for submission to the governor an annually up-  
26 dated six-year capital improvements program and the proposed capital  
27 improvements budget for the coming fiscal year, the latter to include  
28 individual project justification with documentation of estimated proj-  
29 ect cost;

1           (3) develop procedures to produce the information needed  
2 for effective policy decision making, including procedures to provide  
3 for the dissemination of information about plans, programs, and budget  
4 requests to be included in the annual budget and opportunity for pub-  
5 lic review and comment during the period of budget preparation;

6           (4) assist state agencies in their statement of goals and  
7 objectives, preparation of plans, budget requests, and reporting of  
8 program performance; all documents forwarded by the office [DIVISION]  
9 to a state agency containing instructions for the preparation of pro-  
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13 cution provisions of this chapter so that the policy decisions and  
14 budget determinations of the governor and the legislature are imple-  
15 mented;

16           (6) provide the legislative finance division with the bud-  
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19 vance copy of the governor's budget workbooks by the first Monday in  
20 January of each year, except that following a gubernatorial election  
21 year the advance copy shall be provided by the second Monday in Janu-  
22 ary.

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24           (b) Each state agency shall prepare an annual plan for the  
25 operation of each of its assigned programs except for programs that  
26 are exempted from this requirement by the office [DIVISION]. The  
27 operations plan shall be prepared in the form and content and be  
28 transmitted on the date prescribed by the office [DIVISION].

29 \* Sec. 6. AS 37.07.080(c) is amended to read:

1 (c) The office [DIVISION] shall

2 (1) review each operations plan to determine that it is  
3 consistent with the policy decisions of the governor and appropria-  
4 tions by the legislature, that it reflects proper planning and effi-  
5 cient management methods, that appropriations have been made for the  
6 planned purpose and will not be exhausted before the end of the fiscal  
7 year;

8 (2) approve the operations plan if satisfied that it meets  
9 the requirements under (1) of this subsection; otherwise, the office  
10 [DIVISION] shall require revision of the operations plan in whole or  
11 in part;

12 (3) Repealed by sec. 1 ch 26 SLA 1976.

13 \* Sec. 7. AS 37.07.080(e) is amended to read:

14 (e) Transfers or changes between objects of expenditures or be-  
15 tween allocations may be made by the head of a state agency upon ap-  
16 proval of the office [DIVISION]. No transfers may be made between ap-  
17 propriations except as provided in an act making the transfers between  
18 appropriations.

19 \* Sec. 8. AS 37.07.080(f) is amended to read:

20 (f) The office [DIVISION] shall report quarterly to the governor  
21 and the legislature on the operations of each state agency, relating  
22 actual accomplishments to those planned and modifying, if necessary,  
23 the operations plan of any agency for the balance of the fiscal year.

24 \* Sec. 9. AS 37.07.120 is amended by adding a new paragraph to read:

25 (6) "office" means the Alaska office of management and  
26 budget established in the Office of the Governor by AS 44.19.141.

27 \* Sec. 10. AS 44.19.141 is amended to read:

28 ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
29 OF POLICY DEVELOPMENT AND PLANNING].

1           Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
2 OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the  
3 Governor the Alaska office of management and budget [DIVISION OF  
4 POLICY DEVELOPMENT AND PLANNING].

5 \* Sec. 11. AS 44.19.142 is amended to read:

6           Sec. 44.19.142. DIRECTOR. The office of management and budget  
7 [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a di-  
8 rector who is appointed by, and serves at the pleasure of, the gover-  
9 nor.

10 \* Sec. 12. AS 44.19.143 is amended to read:

11           Sec. 44.19.143. PERSONNEL. The director shall employ such per-  
12 sonnel as may be necessary to carry out the provisions of AS 44.19.-  
13 141 - 44.19.152 and the relevant provisions of AS 37.07.

14 \* Sec. 13. AS 44.19.144(a) is amended to read:

15           (a) The director shall

16                 (1) supervise and administer the activities of the office  
17 [DIVISION];

18                 (2) advise the governor on matters of comprehensive state  
19 planning;

20                 (3) make an annual report to the governor of the activities  
21 of the office [DIVISION].

22 \* Sec. 14. AS 44.19.144(b)(3) is amended to read:

23                 (3) on behalf of the state, accept and expend any gifts or  
24 grants made to the state with the approval of the governor where such  
25 gifts or grants were made for the purposes of furthering the objec-  
26 tives of the office [DIVISION].

27 \* Sec. 15. AS 44.19.145 is amended to read:

28           Sec. 44.19.145. FUNCTIONS AND DUTIES OF THE OFFICE [DIVISION].

29           (a) The office [DIVISION] shall

1           (1) provide technical assistance to the governor and the  
2 legislature in identifying long range goals and objectives for the  
3 state and its political subdivisions;

4           (2) prepare and maintain a state comprehensive development  
5 plan;

6           (3) provide information and assistance to state agencies to  
7 aid in governmental coordination and unity in the preparation of agen-  
8 cy plans and programs;

9           (4) review planning within state government as may be nec-  
10 essary for receipt of federal, state or other funds;

11           (5) Repealed.

12           (6) participate with other countries, provinces, states or  
13 subdivisions of them [THEREOF] in international or interstate plan-  
14 ning, and assist Alaska's local governments, governmental conferences  
15 and councils, in planning and coordinating their activities;

16           (7) Repealed.

17           (8) encourage educational and research programs that fur-  
18 ther state planning and development, and provide administrative and  
19 technical services for them;

20           (9) publish such statistical information or other documen-  
21 tary material as will further the provisions and intent of AS 44.19.-  
22 141 - 44.19.152;

23           (10) assist the governor and the Department of Community and  
24 Regional Affairs in coordinating the activities of state agencies  
25 which have an impact on the solution of local and regional development  
26 problems;

27           (11) serve as a clearinghouse for information, data, and  
28 other materials which may be helpful or necessary to federal, state or  
29 local governmental agencies in discharging their respective respon-

1 sibilities or in obtaining federal or state financial or technical as-  
2 sistance;

3 (12) review all proposals for the location of capital im-  
4 provements by any state agency and advise and make recommendations  
5 concerning location of these capital improvements;

6 (13) review and comment on federal consistency determina-  
7 tions and certifications authorized by sec. 307 of the Coastal Zone  
8 Management Act of 1972, as amended, 16 U.S.C. sec. 1456, and the state  
9 coastal management program.

10 (b) The office [DIVISION] shall, in carrying out its functions,  
11 consult with local, regional, state and federal officials, private  
12 groups and individuals, and with officials[, ] of other countries,  
13 provinces and states, and may hold public hearings to obtain informa-  
14 tion for the purpose of carrying out the provisions of AS 44.19.141 -  
15 44.19.152.

16 (c) The governor may establish coordinating or advisory planning  
17 groups.

18 (d) The office [DIVISION] shall

19 (1) coordinate its services and activities with those of  
20 other state departments and agencies to the fullest extent possible to  
21 avoid duplication;

22 (2) prepare an integrated annual report on the long-range  
23 development program of the state and submit it to the governor for in-  
24 corporation into the governor's [HIS] report to the legislature;

25 (3) cooperate with the University of Alaska and other ap-  
26 propriate public and private institutions in research and investiga-  
27 tions.

28 \* Sec. 16. AS 44.19.152 is amended to read:

29 Sec. 44.19.152. DEFINITIONS. In AS 44.19.141 - 44.19.152,

1           (1) ["DIVISION" MEANS THE DIVISION OF POLICY DEVELOPMENT  
2 AND PLANNING;]

3           (2) "director" means the director of the office of manage-  
4 ment and budget; [DIVISION OF POLICY DEVELOPMENT AND PLANNING.]

5           (3) "office" means the Alaska office of management and bud-  
6 get.

7 \* Sec. 17. AS 44.19.155(a)(2)(A) is amended to read:

8           (A) the director of the office of management and bud-  
9 get [DIVISION OF POLICY DEVELOPMENT AND PLANNING];

10 \* Sec. 18. AS 44.19.155(d) is amended to read:

11           (d) Each member of the council shall select one person to serve  
12 as a permanent alternate at meetings of the council. If a member of  
13 the council is unable to attend, the member [HE] shall advise the  
14 alternate who may attend and act in the place of the member. The  
15 alternate for a public member appointed after July 9, 1978 under  
16 (a)(1) of this section shall, at the time of the attendant's [HIS]  
17 designation and throughout the period of [HIS] service as a permanent  
18 alternate, be the mayor or member of the assembly or council of a  
19 municipality within the region from which the permanent member is  
20 appointed. The alternate for the director of the office of management  
21 and budget, serving under (a)(2)(A) of this section, shall be the  
22 director's designee within that office. The alternate for a designat-  
23 ed member serving under (a)(2)(B) - (G) of this section shall be a  
24 deputy commissioner of the department or the director of a division in  
25 the department. The names of alternates shall be filed with the  
26 council.

27 \* Sec. 19. AS 44.19.162 is amended to read:

28           Sec. 44.19.162. COUNCIL STAFF. The council shall use [UTILIZE]  
29 the staff of the office of coastal management within the office of

1        management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING] in  
2        discharging its powers and duties. The coordinator of the office of  
3        coastal management, under the direction of the council co-chair who is  
4        selected from among the members designated in AS 44.19.155(a)(2) [,  
5        WITH THE CONCURRENCE OF THE COUNCIL], may contract with or employ per-  
6        sonnel or consultants the coordinator [HE] considers necessary to car-  
7        ry out the powers and duties of the council.

8        \* Sec. 20. AS 44.83.030(2) is amended to read:

9                (2) the director of the office of [DIVISION OF BUDGET AND]  
10        management and budget, or the director's designee within that office,  
11        and three commissioners of principal executive departments appointed  
12        by the governor.

13        \* Sec. 21. TRANSITION. All litigation, hearings, investigations and  
14        other proceedings pending under a law amended or repealed by this Act, or  
15        in connection with functions transferred by this Act, continue in effect  
16        and may be continued and completed notwithstanding a transfer or amendment  
17        or repeal provided for in this Act. Certificates, orders, and regulations  
18        issued or adopted under authority of a law amended or repealed by this Act  
19        remain in effect for the term issued, or until revoked, vacated, or other-  
20        wise modified under the provisions of this Act. All contracts, rights,  
21        liabilities, and obligations created by or under a law amended or repealed  
22        by this Act, and in effect on the effective date of this Act, remain in  
23        effect notwithstanding this Act's taking effect. Records, equipment, and  
24        other property of agencies of the state whose functions are transferred  
25        under this Act shall be transferred commensurate with the provisions of  
26        this Act.

27        \* Sec. 22. NAME CHANGE. To be consistent with the changes made by this  
28        Act, wherever in the Alaska Statutes and in regulations adopted under those  
29        statutes "division of budget and management" and "division of policy devel-

1 opment and planning," and other terms identifying those divisions, are  
2 used, they must be read as referring to the office of management and bud-  
3 get. Similarly, references to the directors of those divisions must be  
4 read as references to the director of the office of management and budget.  
5 Under AS 01.05.031, the revisor of statutes shall implement this section in  
6 the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall  
7 implement this section in the administrative regulations.

8 \* Sec. 23. This Act takes effect immediately in accordance with AS 01.-  
9 10.070(c).

Original sponsor: Finance Committee

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IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 152 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the preparation of fiscal notes for bills and resolutions and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date."

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

\* Section 1. PURPOSE AND INTENT. (a) It is the purpose of this Act, in the best interests of efficient administration and state planning, to merge the division of budget and management, the division of policy development and planning, and the latter's office of coastal management, including both capital and operating expenditures, into one office.

(b) It is the intent of the legislature that the powers conferred by this Act be exercised by the executive branch and its agencies, divisions, and departments, in cooperation with the legislature and its committees.

\* Sec. 2. AS 24.20.231(4) is amended to read:

(4) cooperate with the office of management and budget [DIVISION OF BUDGET AND MANAGEMENT] in establishing a comprehensive system for state budgeting and financial management as set out in the Executive Budget Act (AS 37.07);

\* Sec. 3. AS 24.30.035 is amended to read:

Sec. 24.30.035. FISCAL NOTES ON BILLS. (a) Before a bill or resolution, except an appropriation bill, is reported from the committee of first referral, there shall be attached to the bill a fiscal

1 note containing an estimate of the amount of the appropriation in-  
2 crease or decrease which would result from enactment of the bill for  
3 the current [ENSUING] fiscal year and at least five [TWC] succeeding  
4 fiscal years or, if the bill has no fiscal impact, a statement to that  
5 effect shall be attached. The fiscal note or statement shall be  
6 prepared by the office of management and budget in conformity with the  
7 requirements of this section [DEPARTMENT OR DEPARTMENTS AFFECTED]. If  
8 the bill is presented by the governor for introduction in accordance  
9 with AS 24.30.060(b) and the uniform rules of the legislature, the  
10 fiscal note or statement shall be attached to the bill before the bill  
11 is introduced. An amendment or a substitute bill proposed by a com-  
12 mittee of referral that changes the fiscal impact of a bill shall be  
13 explained in a revised fiscal note or statement attached to the bill.

14 \* Sec. 4. AS 24.30.035 is amended by adding new subsections to read:

15 (b) In addition to the fiscal note required by this section, the  
16 sponsor of a bill or resolution may prepare a fiscal note in conform-  
17 ity with the requirements of this section and submit it to the commit-  
18 tee of first referral or the finance committee. A committee may  
19 prepare an additional fiscal note in conformity with the requirements  
20 of this section.

21 (c) A fiscal note for a bill or resolution must contain the  
22 following information:

- 23 (1) the fiscal impact on existing programs;  
24 (2) the fiscal impact of new programs or activities;  
25 (3) a line item detail of the fiscal impact;  
26 (4) the source of funds expected to be utilized by general  
27 fund source, federal fund source, or other identified source;  
28 (5) the number of new positions which may be required,  
29 identified as full-time, part-time, or temporary;

1 (6) an analysis of how the figures in the fiscal note were  
2 derived;

3 (7) additional information necessary to explain the fiscal  
4 note;

5 (8) a fiscal impact projection for the first year in which  
6 expenditures will be required and for the succeeding five fiscal  
7 years; and

8 (9) formal information consisting of

9 (A) the bill or resolution number,

10 (B) the name of the prime sponsors,

11 (C) the date the fiscal note was prepared,

12 (D) the name of the committee requesting the fiscal  
13 note,

14

15 (E) the name and phone number of the person who pre-  
16 pared the fiscal note, and

17 (F) the budget request unit, program, or subprogram  
18 affected.

19 (d) The original of a fiscal note must be submitted to the  
20 Division of Legislative Finance and copies must be sent to the prime  
21 sponsor, the committee requesting the fiscal note, and the office of  
22 management and budget.

23 \* Sec. 5. AS 37.07.040 is amended to read:

24 Sec. 37.07.040. OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF  
25 BUDGET AND MANAGEMENT]. The Alaska office of management and budget  
26 [BUDGET AND MANAGEMENT DIVISION] shall

27 (1) assist the governor in the preparation and explanation  
28 of the proposed comprehensive program and financial plan, including  
29 the coordination and analysis of state agency goals and objectives,  
plans, and budget requests;

1 (2) prepare for submission to the governor an annually up-  
2 dated six-year capital improvements program and the proposed capital  
3 improvements budget for the coming fiscal year; the latter to include  
4 individual project justification with documentation of estimated proj-  
5 ect cost;

6 (3) develop procedures to produce the information needed  
7 for effective policy decision making, including procedures to provide  
8 for the dissemination of information about plans, programs, and budget  
9 requests to be included in the annual budget and opportunity for pub-  
10 lic review and comment during the period of budget preparation;

11 (4) assist state agencies in their statement of goals and  
12 objectives, preparation of plans, budget requests, and reporting of  
13 program performance; all documents forwarded by the office [DIVISION]  
14 to a state agency containing instructions for the preparation of pro-  
15 gram plans and budget requests and the reporting of program perfor-  
16 mance are public information after the date they are forwarded;

17 (5) administer its responsibilities under the program exe-  
18 cution provisions of this chapter so that the policy decisions and  
19 budget determinations of the governor and the legislature are imple-  
20 mented;

21 (6) provide the legislative finance division with the bud-  
22 get information it may request;

23 (7) provide the legislative finance division with an ad-  
24 vance copy of the governor's budget workbooks by the first Monday in  
25 January of each year, except that following a gubernatorial election  
26 year the advance copy shall be provided by the second Monday in Janu-  
27 ary.

28 \* Sec. 6. AS 37.07.080(b) is amended to read:

29 (b) Each state agency shall prepare an annual plan for the

1 operation of each of its assigned programs except for programs that  
2 are exempted from this requirement by the office [DIVISION]. The  
3 operations plan shall be prepared in the form and content and be  
4 transmitted on the date prescribed by the office [DIVISION].

5 \* Sec. 7. AS 37.07.080(c) is amended to read:

6 (c) The office [DIVISION] shall

7 (1) review each operations plan to determine that it is  
8 consistent with the policy decisions of the governor and appropria-  
9 tions by the legislature, that it reflects proper planning and effi-  
10 cient management methods, that appropriations have been made for the  
11 planned purpose and will not be exhausted before the end of the fiscal  
12 year;

13 (2) approve the operations plan if satisfied that it meets  
14 the requirements under (1) of this subsection; otherwise, the office  
15 [DIVISION] shall require revision of the operations plan in whole or  
16 in part;

17 (3) Repealed by sec. 1 ch 26 SLA 1976.

18 \* Sec. 8. AS 37.07.080(e) is amended to read:

19 (e) Transfers or changes between objects of expenditures or be-  
20 tween allocations may be made by the head of a state agency upon ap-  
21 proval of the office [DIVISION]. No transfers may be made between ap-  
22 propriations except as provided in an act making the transfers between  
23 appropriations.

24 \* Sec. 9. AS 37.07.080(f) is amended to read:

25 (f) The office [DIVISION] shall report quarterly to the governor  
26 and the legislature on the operations of each state agency, relating  
27 actual accomplishments to those planned and modifying, if necessary,  
28 the operations plan of any agency for the balance of the fiscal year.

29 \* Sec. 10. AS 37.07.120 is amended by adding a new paragraph to read:

1 (6) "office" means the Alaska office of management and  
2 budget established in the Office of the Governor by AS 44.19.141.

3 \* Sec. 11. AS 44.19.141 is amended to read:

4 ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
5 OF POLICY DEVELOPMENT AND PLANNING].

6 Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION  
7 OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the  
8 Governor the Alaska office of management and budget [DIVISION OF  
9 POLICY DEVELOPMENT AND PLANNING].

10 \* Sec. 12. AS 44.19.142 is amended to read:

11 Sec. 44.19.142. DIRECTOR. The office of management and budget  
12 [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a di-  
13 rector who is appointed by, and serves at the pleasure of, the gover-  
14 nor.

15 \* Sec. 13. AS 44.19.143 is amended to read:

16 Sec. 44.19.143. PERSONNEL. The director shall employ such per-  
17 sonnel as may be necessary to carry out the provisions of AS 44.19.-  
18 141 - 44.19.152 and the relevant provisions of AS 37.07.

19 \* Sec. 14. AS 44.19.144(a) is amended to read:

20 (a) The director shall

21 (1) supervise and administer the activities of the office  
22 [DIVISION];

23 (2) advise the governor on matters of comprehensive state  
24 planning;

25 (3) make an annual report to the governor of the activities  
26 of the office [DIVISION].

27 \* Sec. 15. AS 44.19.144(b)(3) is amended to read:

28 (3) on behalf of the state, accept and expend any gifts or  
29 grants made to the state with the approval of the governor where such

1 gifts or grants were made for the purposes of furthering the objec-  
2 tives of the office [DIVISION].

3 \* Sec. 16. AS 44.19.145 is amended to read:

4 Sec. 44.19.145. FUNCTIONS AND DUTIES OF THE OFFICE [DIVISION].

5 (a) The office [DIVISION] shall

6 (1) provide technical assistance to the governor and the  
7 legislature in identifying long range goals and objectives for the  
8 state and its political subdivisions;

9 (2) prepare and maintain a state comprehensive development  
10 plan;

11 (3) provide information and assistance to state agencies to  
12 aid in governmental coordination and unity in the preparation of agen-  
13 cy plans and programs;

14 (4) review planning within state government as may be nec-  
15 essary for receipt of federal, state or other funds;

16 (5) Repealed.

17 (6) participate with other countries, provinces, states or  
18 subdivisions of them [THEREOF] in international or interstate plan-  
19 ning, and assist Alaska's local governments, governmental conferences  
20 and councils, in planning and coordinating their activities;

21 (7) Repealed.

22 (8) encourage educational and research programs that fur-  
23 ther state planning and development, and provide administrative and  
24 technical services for them;

25 (9) publish such statistical information or other documen-  
26 tary material as will further the provisions and intent of AS 44.19.-  
27 141 - 44.19.152;

28 (10) assist the governor and the Department of Community and  
29 Regional Affairs in coordinating the activities of state agencies

1 which have an impact on the solution of local and regional development  
2 problems;

3 (11) serve as a clearinghouse for information, data, and  
4 other materials which may be helpful or necessary to federal, state or  
5 local governmental agencies in discharging their respective responsi-  
6 bilities or in obtaining federal or state financial or technical as-  
7 sistance;

8 (12) review all proposals for the location of capital im-  
9 provements by any state agency and advise and make recommendations  
10 concerning location of these capital improvements;

11 (13) review and comment on federal consistency determina-  
12 tions and certifications authorized by sec. 307 of the Coastal Zone  
13 Management Act of 1972, as amended, 16 U.S.C. sec. 1456, and the state  
14 coastal management program.

15 (b) The office [DIVISION] shall, in carrying out its functions,  
16 consult with local, regional, state and federal officials, private  
17 groups and individuals, and with officials[,] of other countries,  
18 provinces and states, and may hold public hearings to obtain informa-  
19 tion for the purpose of carrying out the provisions of AS 44.19.141 -  
20 44.19.152.

21 (c) The governor may establish coordinating or advisory planning  
22 groups.

23 (d) The office [DIVISION] shall

24 (1) coordinate its services and activities with those of  
25 other state departments and agencies to the fullest extent possible to  
26 avoid duplication;

27 (2) prepare an integrated annual report on the long-range  
28 development program of the state and submit it to the governor for in-  
29 corporation into the governor's [HIS] report to the legislature;

1 (3) cooperate with the University of Alaska and other ap-  
2 propriate public and private institutions in research and investiga-  
3 tions.

4 \* Sec. 17. AS 44.19.152 is amended to read:

5 Sec. 44.19.152. DEFINITIONS. In AS 44.19.141 - 44.19.152,

6 (1) ["DIVISION" MEANS THE DIVISION OF POLICY DEVELOPMENT  
7 AND PLANNING;]

8 (2) "director" means the director of the office of manage-  
9 ment and budget; [DIVISION OF POLICY DEVELOPMENT AND PLANNING.]

10 (3) "office" means the Alaska office of management and bud-  
11 get.

12 \* Sec. 18. AS 44.19.155(a)(2)(A) is amended to read:

13 (A) the director of the office of management and bud-  
14 get [DIVISION OF POLICY DEVELOPMENT AND PLANNING];

15 \* Sec. 19. AS 44.19.155(d) is amended to read:

16 (d) Each member of the council shall select one person to serve  
17 as a permanent alternate at meetings of the council. If a member of  
18 the council is unable to attend, the member [HE] shall advise the  
19 alternate who may attend and act in the place of the member. The  
20 alternate for a public member appointed after July 9, 1978 under  
21 (a)(1) of this section shall, at the time of the attendant's [HIS]  
22 designation and throughout the period of [HIS] service as a permanent  
23 alternate, be the mayor or member of the assembly or council of a  
24 municipality within the region from which the permanent member is  
25 appointed. The alternate for the director of the office of management  
26 and budget, serving under (a)(2)(A) of this section, shall be the  
27 director's designee within that office. The alternate for a designat-  
28 ed member serving under (a)(2)(B) - (G) of this section shall be a  
29 deputy commissioner of the department or the director of a division in

1 the department. The names of alternates shall be filed with the  
2 council.

3 \* Sec. 20. AS 44.19.162 is amended to read:

4 Sec. 44.19.162. COUNCIL STAFF. The council shall use [UTILIZE]  
5 the staff of the office of coastal management within the office of  
6 management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING] in  
7 discharging its powers and duties. The coordinator of the office of  
8 coastal management, under the direction of the council co-chair who is  
9 selected from among the members designated in AS 44.19.155(a)(2) [,  
10 WITH THE CONCURRENCE OF THE COUNCIL], may contract with or employ per-  
11 sonnel or consultants the coordinator [HE] considers necessary to  
12 carry out the powers and duties of the council.

13 \* Sec. 21. AS 44.83.030(2) is amended to read:

14 (2) the director of the office of [DIVISION OF BUDGET AND]  
15 management and budget, or the director's designee within that office,  
16 and three commissioners of principal executive departments appointed  
17 by the governor.

18 \* Sec. 22. TRANSITION. All litigation, hearings, investigations and  
19 other proceedings pending under a law amended or repealed by this Act, or  
20 in connection with functions transferred by this Act, continue in effect  
21 and may be continued and completed notwithstanding a transfer or amendment  
22 or repeal provided for in this Act. Certificates, orders, and regulations  
23 issued or adopted under authority of a law amended or repealed by this Act  
24 remain in effect for the term issued, or until revoked, vacated, or other-  
25 wise modified under the provisions of this Act. All contracts, rights,  
26 liabilities, and obligations created by or under a law amended or repealed  
27 by this Act, and in effect on the effective date of this Act, remain in  
28 effect notwithstanding this Act's taking effect. Records, equipment, and  
29 other property of agencies of the state whose functions are transferred

1 under this Act shall be transferred commensurate with the provisions of  
2 this Act.

3 \* Sec. 23. NAME CHANGE. To be consistent with the changes made by this  
4 Act, wherever in the Alaska Statutes and in regulations adopted under those  
5 statutes "division of budget and management" and "division of policy devel-  
6 opment and planning," and other terms identifying those divisions, are  
7 used, they must be read as referring to the office of management and bud-  
8 get. Similarly, references to the directors of those divisions must be  
9 read as references to the director of the office of management and budget.  
10 Under AS 01.05.031, the revisor of statutes shall implement this section in  
11 the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall  
12 implement this section in the administrative regulations.

13 \* Sec. 24. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).  
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by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

**Effective dates.** — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

**Editor's notes.** — The provisions of this section were formerly contained in AS 37.05.315(g), which was deleted by the 1982 amendment.

**Sec. 37.05.319. Definitions.** In AS 37.05.315 — 37.05.317, "appropriation" and "allocation" have the meanings set out in AS 37.07.120(4) and (5). (§ 2 ch 4 SLA 1982)

**Effective dates.** — Section 3, ch. 4, SLA 1982, provides that this section take effect

January 16, 1982, in accordance with AS 01.10.07(c).

## Chapter 07. Executive Budget Act.

### Section

- 10. Statement of policy
- 20. Responsibilities of the governor
- 40. Division of budget and management

### Section

- 60. Governor's recommendation
- 70. Legislative review
- 80. Program execution

### NOTES TO DECISIONS

The University of Alaska is subject to the provisions of this chapter. February 28, 1977, Op. Att'y Gen.

There is no constitutional obstacle to

making the University of Alaska subject to the provisions contained in this title. February 28, 1977, Op. Att'y Gen.

**Sec. 37.07.010. Statement of policy.** It is the purpose of this chapter to establish a comprehensive system for state program and financial management which furthers the capacity of the governor and legislature to plan and finance the services which they determine the state will provide for its citizens. The system shall include procedures for

(1) the orderly establishment, continuing review, and periodic revision of the program goals and policies of state agencies and financial goals and policies of the state;

(2) the development, coordination and review of long-range program and financial plans that will implement established state goals and policies;

(3) the preparation, coordination, analysis, and enactment of a budget which is organized to focus on the services provided by state agencies and on the cost of those services and which provides for implementation of policies and plans in the succeeding budget period;

(4) the evaluation of alternatives to existing policies, plans and procedures that offer potential for more efficient state services;

(5) the regular appraisal and reporting of program performance;

(6) public participation in the development of the annual budget, including opportunity for the public to review and comment upon the plans and programs of the Office of the Governor and all state agencies in the executive branch, the legislature, the judicial system, the University of Alaska and the public corporations of the state. (§ 1 ch 188 SLA 1970; am § 2 ch 168 SLA 1978; am §§ 1, 2 ch 2 SLA 1982)

Effect of amendments. — The 1982 amendment, effective January 16, 1982, inserted "goals and policies of state agencies" in paragraph (1); and in paragraph (3), deleted "and" preceding "anal-

ysis," inserted "which is," and substituted "the services provided by state agencies and on the cost of those services and which provides for" for "state services and their costs, that authorizes the."

Sec. 37.07.020. Responsibilities of the governor. (a) The governor shall prepare and submit to the legislature before the fourth legislative day a budget for the succeeding fiscal year which shall cover all estimated receipts, including all grants, loans, and money received from the federal government, and all proposed expenditures of the state government. The budget submitted by the governor shall be organized so that the proposed expenditures for each agency are presented separately. The budget shall be accompanied by a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

(b) In addition to the budget and general appropriation bill, the governor shall submit a capital improvements program and financial plan covering the succeeding six fiscal years.

(c) Proposed expenditures may not exceed estimated revenues for the succeeding fiscal year. The expenditures proposed in the six-year capital improvements program and financial plan shall not exceed the estimated revenues and bond authorizations passed and proposed.

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus. § 1 ch 188 SLA 1970; am § 3 ch 168 SLA 1978; am § 4 ch 18 SLA 1980; am § 3 ch 2 SLA 1982)

Effect of amendments. — The 1980 amendment added subsection (d). The 1982 amendment, effective January

16, 1982, added the present second sentence of subsection (a).

Sec. 37.07.

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**Sec. 37.07.040. Division of budget and management.** The budget and management division shall

(1) assist the governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of state agency goals and objectives, plans, and budget requests;

(2) prepare for submission to the governor an annually updated six-year capital improvements program and the proposed capital improvements budget for the coming fiscal year, the latter to include individual project justification with documentation of estimated project cost;

(3) develop procedures to produce the information needed for effective policy decision making, including procedures to provide for the dissemination of information about plans, programs, and budget requests to be included in the annual budget and opportunity for public review and comment during the period of budget preparation;

(4) assist state agencies in their statement of goals and objectives, preparation of plans, budget requests, and reporting of program performance; all documents forwarded by the division to a state agency containing instructions for the preparation of program plans and budget requests and the reporting of program performance are public information after the date they are forwarded;

(5) administer its responsibilities under the program execution provisions of this chapter so that the policy decisions and budget determinations of the governor and the legislature are implemented;

(6) Provide the legislative finance division with the budget information it may request;

(7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in January of each year, except that following a gubernatorial election year the advance copy shall be provided by the second Monday in January. (§ 1 ch 188 SLA 1970; am § 3 ch 95 SLA 1971; am § 1 ch 60 SLA 1972; am § 1 ch 16 SLA 1976; am § 5 ch 168 SLA 1978; am § 4 ch 2 SLA 1982)

**Cross references.** — As to duty of legislative finance division to cooperate with division of budget and management in establishing a comprehensive system for state budgeting and financial management as set out in this chapter, see AS 24.20.231(4).

**Effect of amendments.** — The 1982

amendment, effective January 16, 1982, deleted "program" preceding "goals," "plans," and "budget requests" in paragraph (1), preceding "budget requests" in paragraph (3), preceding "plans" and "budget requests" near the beginning of paragraph (4), and preceding "budget requests" near the end of paragraph (4).

**Sec. 37.07.060. Governor's recommendation.** (a) The governor shall formulate the operating and capital improvements programs and financial plans required to be recommended to the legislature by AS 37.07.020 after considering the state agency proposed program and financial plans, and other programs and alternatives that he considers



(4) a summary of state receipts in the last fiscal year, a revised estimate for the current fiscal year, and an estimate for the succeeding fiscal year;

(5) a summary of expenditures during the last fiscal year, those authorized for the current fiscal year, and an estimate for the succeeding fiscal year;

(6) any additional information which will facilitate understanding of the governor's proposed programs and financial plans by the legislature and the public. (§ 1 ch 188 SLA 1970; am § 7 ch 168 SLA 1978; am § 1 ch 96 SLA 1980; am § 5 ch 2 SLA 1982)

**Effect of amendments.** — The 1980 amendment rewrote subparagraph (A) of paragraph (3) of subsection (b).

The 1982 amendment, effective January 16, 1982, in subsection (b), added "organized by agency as required by AS

37.07.020(a)" to the end of paragraph (2).

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 37.07.070. Legislative review.** The legislature shall consider the governor's proposed comprehensive operating and capital improvements programs and financial plans, evaluate alternatives to the plans, make program selections among the various alternatives and determine, subject to available revenues, the level of funding required to support authorized state services. The operating and capital budgets of each agency shall be separately reviewed. During each regular session of the legislature, legislative review of the governor's supplemental appropriation bills and the governor's budget amendments shall be governed by the following time limits:

(1) Requests by the governor for supplemental appropriations for state agency operating budgets for the current fiscal year may be introduced by the rules committee only through the 45th legislative day.

(2) Requests by the governor for budget amendments to state agency budgets for the budget fiscal year may be received and reviewed by the finance committees only through the 75th legislative day. (§ 1 ch 188 SLA 1970; am § 1 ch 66 SLA 1977; am § 9 ch 168 SLA 1978; am § 6 ch 2 SLA 1982)

**Effective of amendments.** — The 1982 amendment, effective January 16, 1982, rewrote the section.

**Sec. 37.07.080. Program execution.** (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several state agencies have full authority for administering their program service assignments and are responsible for their proper management.

(b) Each state agency shall prepare an annual plan for the operation of each of its assigned programs except for programs that are exempted

from this requirement by the division. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the division.

(c) The division shall

(1) review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

(2) approve the operations plan if satisfied that it meets the requirements under (1) of this subsection; otherwise, the division shall require revision of the operations plan in whole or in part;

(3) Repealed by § 1 ch 26 SLA 1976.

(d) No state agency may increase the salaries of its employees, employ additional employees, or expend money or incur obligations except in accordance with law and properly approved operations plan.

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the division. No transfers may be made between appropriations except as provided in an act making the transfers between appropriations.

(f) The division shall report quarterly to the governor and the legislature on the operations of each state agency, relating actual accomplishments to those planned and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

(g) The governor may direct the withholding or reduction of appropriations to a state agency at any time during the fiscal year only if he determines that

(1) the planned expenditures can no longer be made due to factors outside the control of the state which make the expenditure factually impossible; or

(2) estimated receipts and surpluses will be insufficient to provide for appropriations.

(h) The increase of an appropriation item based on additional federal or other program receipts not specifically appropriated by the full legislature may be expended in accordance with the following procedures:

(1) the governor shall submit a revised program to the Legislative Budget and Audit Committee for review;

(2) 45 days shall elapse before commencement of expenditures under the revised program unless the Legislative Budget and Audit Committee earlier recommends that the state take part in the federally or otherwise funded activity;

(3) should the Legislative Budget and Audit Committee recommend within the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if he determines to authorize the expenditure, he shall provide the Legi-

tive Budget a before commer ch 188 SLA 19 1977; am §§ 4

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Offered: 6/10/83

Original sponsor: Eliason

1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 156 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the sale, lease, or grant of  
7 state hatchery facilities."

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

9 \* Section 1. AS 16.05.050 is amended by adding a new paragraph to  
10 read:

11 (13) sell, lease, or grant a state hatchery facility to a  
12 qualified regional aquaculture association formed under AS 16.10.380  
13 or to a local nonprofit hatchery corporation if the sale, lease, or  
14 grant is approved by the regional aquaculture association for the  
15 region in which the hatchery facility is located.

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 156  
 Title Relating to state hatcheries  
 Requested by House Finance Committee Date 6/17/83

II. FISCAL DETAIL

Agency Affected Department of Fish & Game  
 Program Category Affected FRED Division  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		0				

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 6/17/83 PREPARED BY Al Adams, Chair *BPA*  
 AGENCY House Finance Committee  
 Original: Legislative Finance PHONE 465-3706  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/82)

The following individuals may testify on SB 156:

A representative of the Department of Fish & Game

*Bill Sheffield, Governor*

**DEPARTMENT OF FISH AND GAME**

P.O. Box 3-2000  
Juneau, Alaska 99802

(907) 465-4160

December 24, 1982

Representative Bettisworth  
P.O. Box 80288  
College, Alaska 99708

Dear Representative Bettisworth:

The attached correspondence is related to the hatchery transfer issue and is in response to your request for an update on this issue. Shortly after the legislature adjourned last spring, we received the intent language (attached for your reference). Around this same time I was appointed Director of the FRED Division (6-1-82) and as soon as was practical I met with Armin Koenig of the Prince William Aquaculture Association and Ron Wendte of the Southern Southeast Regional Aquaculture Association. Also present was our Contracts and Lease Officer Ernest Greek. We discussed in fairly general terms the possible range of options that might be available for transfer of the public hatchery facilities to the private sector. My rough draft outline of the six areas we needed information about is attached. These are (1) biological, (2) legal, (3) land status, (4) economics, (5) public acceptance, (6) background summary of events.

The Commissioner approved this general approach and instructed me to prepare the information for consideration by the Hatchery Funding Steering Committee appointed by the Governor earlier in the year. The Commissioner indicated at the next Hatchery Funding Steering Committee meeting that he intended to comply with the legislative intent by providing information to the committee and that the committee would develop the options and recommendations and suggest a course of action to the Governor. It was assumed that if the Governor didn't deal with the issue by executive order, he would refer it to the 1983 legislature for consideration.

Shortly after my first meeting with Armin and Ron I received a progress report from Ernest Greek that outlined some of the options we had discussed previously and what was being done about them (memo attached 7-28-82). On July 29, the Governor's Hatchery Funding Steering Committee met again. We reported to the committee the progress being made on the things we were involved in. The Commissioner gave this report. A sub-committee of the Fish Council gave their report and the Executive Director of the United Fishermen of Alaska requested that public meetings be held in October and

November to discuss the issues with the fishermen and the general public. On July 30, the committee met again and made some assignments. The "white paper" (historical document) was to be the responsibility of the Department of Fish and Game. Commissioner S'ooog assigned me the responsibility of completing that report. The Division of Policy, Development and Planning and Division of Budget and Management was to look at the policy development that led us to where we are and what the spending limit might do. I subsequently incorporated their work on the spending limit in the "white paper". The committee recommended that an issue paper be developed with recommendations and alternatives and be presented at several public meetings throughout the state. Feedbacks from these meetings was to be sent to the Governors office.

Returning to the outline I mentioned earlier, I'll give you a run down on what I know about the six general areas.

1. Biological - The department assumes that whatever biological goals and constraints are set they will be negotiated between the leasee and the State. We have never questioned the private sectors ability to run hatcheries. Soon after we received the legislature intent, I took inventory at the three hatcheries in question and sent a letter to the associations concerned and assured them that if they took over the facilities that it could be done with the inventory as of 6-1-82. This was done to alleviate their expressed fears that the FRED Division would strip the facilities since we might be losing them. Also, I had to operate these facilities as if they would not be transferred and didn't want to have my motives questioned every time a piece of equipment was moved.
2. Legal - On July 28, Ernest Greek requested assistance from the Attorney Generals office and that correspondence is attached.
3. Land Status- We checked with the land owners of the facilities in question and it is our perception at this time that all permits, rights, leases and other problems in this general area will be no deterrent to the transfer.
4. Economic Questions - This of course is none of Fish and Games business. We assume someone who wants the hatchery will be able to pay for them and also fund the operational cost. If the money is to be provided by the State, the Department of Commerce would be involved in this question.
5. Public Opinion - No public meetings were held. The election, change in administration, resignation of the Executive Director of UFA and numerous other events collectively prevented any public meetings from being held. In my travels this past six months I have picked up some feedback which I have passed on to interested parties. A combination of the legislature, the UFA, the administration and the association hoping to receive the facilities will have to address this issue at some point.

# **CORRECTION**

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

November to discuss the issues with the fishermen and the general public. On July 30, the committee met again and made some assignments. The "white paper" (historical document) was to be the responsibility of the Department of Fish and Game. Commissioner Skoog assigned me the responsibility of completing that report. The Division of Policy, Development and Planning and Division of Budget and Management was to look at the policy development that led us to where we are and what the spending limit might do. I subsequently incorporated their work on the spending limit in the "white paper". The committee recommended that an issue paper be developed with recommendations and alternatives and be presented at several public meetings throughout the state. Feedbacks from these meetings was to be sent to the Governors office.

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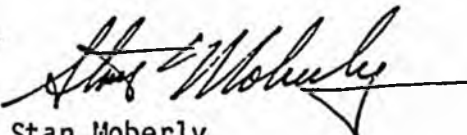
6. "White Paper" - The "white paper" is complete and I assume the Commissioner's office will distribute it in early January in draft form for comments. The Fish Council members received draft copies of the report the 23rd of November and as of this date we have recieved no constructive criticism.

I was informed December 23 that Senator Eliason has prefiled legislation concerning the transfer of public hatcheries to the private sector. With a change in administration and the resignation of Commissioner Skoog, I do not know the status of the Hatchery Funding Steering Committee. I believe what needs to be done at this point is for some "group" to bring all the elements together so they have structure and continuity. This will help the legislature deal with the issue. The Department has not recommended options concerning the transfer but has instead scoped out those public policy questions we feel will need to be addressed if the transfer issue is to be resolved. That brings you up to date on the events that have transpired in the past six months.

The Legislature also requested that the Administration coordinate a review and overall re-evaluation of the relationship of State operated hatcheries and Private nonprofit hatcheries and to propose a overall state policy to present to the 1983 legislature. I do not know what was done by the Administration in this regard. We in the Department and especially the FRED Division would welcome a further definition of roles. The rehabilitation and enhancement program has come a long way in the last decade, and I recognize as do my top managers that we need more definition of roles the state and private sectors are intended to play.

I hope you won't mind my sending copies of this letter to the Regional Association and others concerned. They also have requested an update on this issue.

Sincerely,



Stan Moberly  
Director  
Division of Fisheries Rehabilitation,  
Enhancement and Development

cc: Armin Koenig  
Peter Esquire - NSAA  
Ron Wendte - SSAA  
Tom Mears - Cook Inlet  
Cass Parsons - Executive Director, UFA  
Senator Eliason

RESOLUTION  
OF THE  
ALASKA FISHERIES COUNCIL  
November 23, 1982

WHEREAS, the Fisheries Rehabilitation, Enhancement & Development Division of the Alaska Department of Fish and Game has played a vital role in the State of Alaska's Salmon Enhancement Program; and

WHEREAS, the Fisheries Rehabilitation, Enhancement & Development Division shall continue to play a vital role in the support of the Salmon Enhancement Program by providing technical services such as pathology, genetics, and limnology, as well as to produce fish in areas not suited for cost recovery for the benefit of all Alaskans, be they subsistence, sport, or commercial users, and continue to develop new biotechnology; and

WHEREAS, the People of the State of Alaska have expressed their edict by imposing a spending limit as an amendment to the Constitution of the State of Alaska; and

WHEREAS, the provisions of the spending limit may cause funding problems that jeopardize the statutorily required and other vital contributions of the Fisheries Rehabilitation, Development & and Enhancement Division to the Alaska Salmon Enhancement Program; and

WHEREAS, the policy of the State is to promote enhancement of the State's salmon fisheries through private, non-profit regional aquaculture associations comprised of all of the various user groups, thereby furthering a valid public purpose; and

WHEREAS, the search for viable options has been exhaustive and but one found; NOW THEREFORE BE IT

RESOLVED that the Alaska Fisheries Council respectfully recommends to the Governor of the State of Alaska that legislation be introduced by his hand to grant authority to the Commissioner of the Department of Fish and Game to sell or lease State-owned salmon hatcheries to Qualified Regional Aquaculture Associations, and further be it

RESOLVED that the Alaska Fisheries Council respectfully recommends to the Legislature of the State of Alaska that said legislation be enacted into law, and further be it

RESOLVED that the Commissioner of the Department of Fish and Game initiate sincere negotiations with those Qualified Regional Aquaculture Associations who apply to lease or buy state-owned salmon hatcheries within their respective regions and that said negotiations be concluded in a timely fashion.

Signed,

Curt Kerns, Chairman  
Alaska Fisheries Council



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

MEMORANDUM

To: The Honorable Bill Sheffield  
Governor

From: Curt Kerns, Chairman *Curt Kerns*  
Alaska Fisheries Council  
Office of the Governor

Subject: AFC Resolution of November 23, 1982

Date: January 3, 1983

The Alaska Fisheries Council respectfully requests your consideration of the enclosed resolution and accompanying draft legislation.

The resolution and legislation are the cumulation of work first begun in July of 1981 when Budget and Management first flagged FRED Division operating and maintenance funding as an area of potential problems, given the imposition of the spending limit. A cabinet-level steering committee and then a working group were formed. A number of options were reviewed; the steering committee narrowed the list to five. After additional study, the Alaska Fisheries Council met to review the options. Four have significant constitutional or political problems. The remaining option -- selected transfer -- while not free of objections, was judged worthy of your consideration.

Should your administration make the decision to introduce the enclosed legislation, passage of the bill and subsequent transfer of selected FRED production facilities to the private sector will not be a panacea in that FRED budgetary requirements will not be reduced. Future increases, however, will not grow as rapidly without transfer. If Alaska is to have a competitive and healthy salmon industry on into the future, FRED will need to be funded at a rate commensurate with other A.D.F. & G. divisions.

A plethora of background materials are available. If your office requires further input, please contact us.

Enclosures

*Curt's Copy*

MEMORANDUM

State of Alaska

TO: Earnest Creek  
Contracts & Facilities Office  
Division of Administration  
Department of Fish & Game

DATE: September 8, 1982

FILE NO: 365-106-13

TELEPHONE NO: 465-2605

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Authority to Transfer Hatcheries

By: John B. Gagnier  
Assistant Attorney General  
Department of Law

RECEIVED  
SEP 14 1982

You have asked several questions regarding the Department of Fish and Game's proposed transfer of three state hatcheries to non-profit regional aquaculture associations. Specifically, you wish to know whether there is any bar to a negotiated transfer to a selected transferee, and what types of transfer are permissible. We conclude that Fish and Game currently may not undertake any type of transfer, since no statutory authority for a transfer now exists. If the legislature does grant the necessary power to Fish and Game, it will be able to do a negotiated transfer, but will not be able to give up ownership without receiving fair value for the facilities.

Lack of statutory authority. Fish and Game has no specific authority to dispose of property. AS 16.05.050(3) authorizes the commissioner to "design and construct" hatcheries, but not to lease or sell them. Similarly, both AS 16.05.020, the statute listing the commissioner's broad functions, and AS 16.05.092, the statute broadly defining the powers of the FRED division (which runs the hatcheries), are silent as to Fish and Game's and/or FRED's power to dispose of them. There is no Alaska constitutional provision or judicial decision expressly requiring that an executive department have explicit statutory authority before it may dispose of state property. But this is the general rule of law followed elsewhere, and one must presume that the rule applies in Alaska, too.

This general rule is reflected in the myriad of cases concerning disposition of state property (generally land) by sale or lease, virtually all of which discuss the statutory basis for the transfer. Many of these cases can be found under West's Key Number States 89. "It is a well settled principle of law that title to government property may pass only in the manner prescribed by the duly constituted legislative body and that title to any such property may not be forfeited through the oversight, carelessness, negligence or even intentional conduct of any of the agents of the government." State v. West, 229 S.E.2d 826, 831-32 (N.C. App. 1976), aff'd, 235 S.E.2d 150 (N.C. 1977). See also Finch v. State, 124 So.2d 875, 877 (Ala. 1960) (within

*Contract for  
aquaculture  
going to  
Selkirk*

Earnest Creek  
Contracts & Facilities Officer  
Department of Fish & Game  
366-086-83

September 9, 1982  
Page 2

constitutional limitations, legislature has power to provide for leasing of state property, and may set limits on length of leases and determine general policy concerning them); State Land Board v. Heuber, 548 P.2d 1323, 1328 (Or. App. 1976) (conveyance by state is valid only if done with proper statutory authority); 5B G. Thompson, Real Property § 2720 (1978 repl. ed.) (state may dispose of lands through the legislature; state officers may act only in accordance with constitution and statutes); 72 Am. Jur.2d States §§ 66, 67 (1974).

The necessary statutory authority to sell or lease cannot be found in general grants of power made by the legislature to state officials. Samsell v State Line Development Co., Inc., 174 S.E.2d 318 (W.Va. 1970), invalidated a mineral lease made in 1962 by the state director of natural resources. The legislature had in 1961 vested title to state land in the Public Land Corporation, of which the natural resources director was secretary, and the corporation had not ratified the lease. The court declined an invitation to uphold the lease on the basis of a general statute allowing the director to execute contracts and agreements in the name of the state.

Another instructive case is Central Advertising Co. v. Michigan State Highway Commission, 172 N.W.2d 432 (Mich. 1969). There the highway commission attempted to place a restrictive covenant banning roadside advertising on some excess land it was selling. In the absence of any statutory authority for this covenant, the court found, its inclusion was beyond the commission's power. Again the court declined to find the requisite authority for the covenant in the statute conferring general powers on the commission.

We would conclude, then, that before Fish and Game can transfer operation of its hatcheries to an aquaculture association, either by sale or lease, the legislature must specifically authorize Fish and Game to make such a transfer. Perhaps an amendment could be proposed to AS 16.05.050(3), which would allow the commissioner to lease or sell the "hatcheries, pipe lines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state" that the subsection now empowers him to construct.

Incidentally, if the hatcheries could be regarded as surplus property, then the Department of Administration currently has the power to dispose of them, by sale or lease, under AS 44.71.010. If, say, the FRED division were unable to operate them because of manpower shortages caused by budget constraints, the hatcheries might be properly regarded as surplus property.

and disposition under AS 44.71.010 might be appropriate. When, however, the decision to transfer operations to the aquaculture associations reflects a department policy determination, invocation of AS 44.71.010 would not in our opinion be proper.

Negotiated transfer. On this question, we refer you to a May 28, 1980 informal opinion of this office, which is attached to this memorandum. While that opinion is directly concerned with disposal of surplus property under AS 44.71.010 (discussed above), the principle is the same. Competitive bidding is required only when specified by statute. Since there is no statute here mandating such bidding, a negotiated transfer is permissible. We would repeat the observation contained in the 1980 informal opinion, though: any transfer agreement (assuming that the requisite statutory authority is obtained) should state why Fish and Game believes the transfer to be in the state's best interest.

Permissible types of transfer. On this question, too, we refer you to another recent informal opinion, this one dated March 30, 1982, and dealing with the very issue of hatchery transfers. That opinion is also attached to this memorandum, and we believe answers the question you pose. In addition, we note that any transfer without compensation of the hatcheries, either as an outright grant or under a "performance purchase" agreement (automatic transfer after a number of years of successful operation by the aquaculture association), would seem to be inconsistent with AS 16.10.500-.620, the fisheries enhancement loan program. AS 16.10.510 authorizes loans (not grants) to certified aquaculture associations to construct hatcheries (under AS 16.10.375-.475). It would be difficult to square this legislative directive with a Fish and Game decision to turn over gratis to the associations hatcheries that Fish and Game built with its own funds. While the legislature has made direct appropriations to aquaculture associations (e.g., § 3, ch. 42, SLA 1982), these grants have not been specifically for the purpose of constructing hatcheries. Of course, the legislature (subject only to constitutional public interest requirements) could authorize a transfer at less than fair market value.

To sum up, then, we believe that the three hatcheries cannot at present be either sold or leased by Fish and Game, because of the lack of statutory authority for hatchery transfer. If the legislature sees fit to confer such authority, then Fish and Game will be able to lease the hatcheries or sell them for fair value to an aquaculture association with which Fish and Game

Earnest Creek  
Contracts & Facilities Officer  
Department of Fish & Game  
366-086-83

September 9, 1987  
Page 4

has negotiated an agreement. However, the department will not be able to transfer the hatcheries at less than fair market value in the absence of specific legislative authority to do so.

Please feel free to contact us if you have additional questions.

JBG:d1m

Attachments

# MEMORANDUM

State of Alaska

TO: Officer of the Attorney General  
Department of Law  
Juneau

DATE: July 28, 1982

FILE NO:

ATTENTION: G. Thomas Koester

TELEPHONE NO:

465-4120

FROM: Earnest Creek  
Contracts & Facilities Officer  
Division of Administration  
Department of Fish and Game

SUBJECT:

Hatcheries Transfer

We are anticipating in the near future the decision to transfer the Cannery Creek and Main Bay Hatcheries to Prince William Sound Aquaculture Corporation, and the Beaver Falls Hatchery to Southern Southeastern Regional Aquaculture Association, Inc.

Consequently, we need your opinion re:

1. State's ability to transfer property to a selected transfer;
2. Fish and Game's authority to transfer by:
  - (a) Sublease
  - (b) Performance Purchase (pass title after successful operation for 5 to 10 years)
  - (c) Grant.

Thank you for your help.

ERG/hb

# MEMORANDUM

State of Alaska

The Honorable William R. Hudson      DATE      May 28, 1980  
Commissioner  
Department of Administration      FILE NO      J-66-737-80

TELEPHONE NO

FROM      AVRUM M. GROSS      SUBJECT      Negotiated sale of excess  
ATTORNEY GENERAL      or surplus housing

By:  
Rodger W. Pegues  
Assistant Attorney General

You have asked whether you may dispose of surplus housing to employee-residents by negotiation.

No statute requires disposal by bid, and the applicable statute, AS 44.71.010, expressly allows for disposition "on the terms [you] consider for the best interests of the state." Some record of how the chosen terms serve the best interests of the state should be a part of the file. Otherwise, there are no other requirements.

The applicable regulations, 2 AAC 20.010(a)(1), allows either a negotiated or competitive sale.

There is no constitutional requirement for a competitive sale. Such requirements as exist are to be found in the statute. Libby v. City of Dillingham, P.2d \_\_\_\_\_ (Alaska Sup. Ct. Op. No. 2097, May 23, 1980). Here, it is the best interests of the state which must be served.

RWP:cb

# MEMORANDUM

# State of Alaska

TO W.I. "Bob" Palmer, Coordinator  
Office of Special Projects  
Office of the Governor

DATE: March 30, 1982

FILE NO: J66-197-82

TELEPHONE NO: 465-3600

FROM WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Transfer of operation  
of state hatcheries

By: *L. Davis*  
Laura L. Davis  
Assistant Attorney General

This will confirm our telephone conversation in response to your memorandum of September 9, 1981. We see no problem with the transfer of responsibility for operation of state-owned fish hatcheries to the private nonprofit aquaculture associations whose membership is directly benefitted by the hatcheries' work. However, if ownership of the hatcheries is transferred, the state must receive fair value for the facilities. If the associations are unable to purchase the facilities, the state may lease them for a nominal fee and provide that the associations shall operate and maintain them. Our opinion is based upon the following legal principles and reasoning.

The Alaska Constitution prohibits the transfer of public property except for a public purpose. Alaska Const., art. IX, § 6. Generally, this requires that the state receive fair value for property which it disposes of. The Department of Administration is by statute responsible for disposing of surplus or obsolete property on terms which are "in the best interests of the state." AS 44.71.010.

The value of a salmon hatchery is in its ability to enhance the supply of fish to be caught by commercial and sport fishermen. Since the ownership of hatchery-produced fish is not retained after they leave the hatchery, the market value of a hatchery is difficult to determine. The establishment of a hatchery serves a public purpose by supporting both commercial and recreational fishing in the state. See Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970), holding that encouraging industrial development is a public purpose. As a hatchery becomes productive, its economic benefit is realized directly by fishermen. In transferring responsibility for a hatchery to the people directly benefitted, the public purpose clause requires that the state obtain terms which recover as much of the public contribution as is reasonable under the circumstances.

We conclude that a simple transfer of ownership without compensation to the state would be suspect. If ownership

W.I. "Bob" Palmer, Coordinator  
Office of Special Projects

March 26, 1982  
Page #2

is transferred, the state should receive reasonable compensation for its costs. As an alternative, a lease of the hatchery for a nominal fee with the lessee paying for operation and maintenance and indemnifying the state from liability for any harm arising from operation of the hatchery would be consistent with the public purpose clause. See Lien v. City of Ketchikan, 383 P.2d 721 (Alaska 1963), regarding a similar lease of a public hospital to a nonprofit corporation.

We note that the general obligation bonds which were issued to pay for the hatcheries do not require the state to continue ownership or operation of the hatcheries. 1974 Alaska Sess. L., ch. 133; 1976 Alaska Sess. L., ch. 214; 1978 Alaska Sess. L., ch. 140; 1980 Alaska Sess. L., ch. 91. However, the money received from those bond issues may not be spent for any other purpose without an appropriation. There is a legal question as to whether money received from a bond issue but not spent for the purposes for which the bonds were authorized may be reappropriated for another public purpose or must be used to redeem the bonds. We will defer addressing this question until it is directly presented. We hope that this answers your questions.

LLD/pjg

cc: Hon. Jim Duncan  
House of Representatives

Offered: 3/29/83  
Referred: Finance

Original sponsor: Eliason

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 156 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the sale, lease, or grant of  
state hatchery facilities."

7

8

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

9

\* Section 1. AS 16.05.050 is amended by adding a new paragraph to

10 read:

11

(13) sell, lease, or grant a state hatchery facility to a

12

qualified regional aquaculture association formed under AS 16.10.380.

Introduced: 3/1/83  
Referred: Resources  
and Finance

1 IN THE SENATE

BY ELIASON

2

SENATE BILL NO. 156

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

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12

regional aquaculture association formed under AS 16.10.380.

Offered: 6/1/83  
Referred: Rules

Original sponsor: Eliason

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SENATE BILL NO. 156 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the sale, lease, or grant of  
7 state hatchery facilities."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 16.05.050 is amended by adding a new paragraph to  
10 read:  
11 (13) sell, lease, or grant a state hatchery facility to a  
12 qualified regional aquaculture association formed under AS 16.10.380  
13 or to a local nonprofit hatchery corporation approved by a qualified  
14 regional aquaculture association.

Amendments suggested by  
Jerry McCutcheon

Offered: 6/10/83

Original sponsor: Eliason

1 IN THE SENATE BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 156 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale, lease, or grant of  
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10 read:

11 (13) sell, lease, or grant a state hatchery facility to a  
12 qualified regional aquaculture association ~~formed under AS 16.10.380~~  
13 or to a local nonprofit hatchery corporation, ~~if the sale, lease, or~~  
14 ~~grant is approved by the regional aquaculture association for the~~  
15 ~~region in which the hatchery facility is located.~~

Offered: 6/10/83

Original sponsor: Eliason

1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 156 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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or to a local nonprofit hatchery corporation ~~if the sale, lease, or~~  
~~grant is approved by the regional aquaculture association for the~~  
~~region in which the hatchery facility is located.~~

if each sale, lease or grant is approved by the legislature  
by law.

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

3/29/83

Date: 4/1/83

Mr. President:

The Committee on Finance has had SB 156

"An Act relating to the sale or lease of state hatchery facilities."

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 156 (F.M.)  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**

V. T. ...  
John ...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

Proposed to ...  
...  
John ... No Pass  
\_\_\_\_\_

[Signature]  
CHAIRMAN  
*no rec*

Offered: 3/29/83  
Referred: Finance

Original sponsor: Eliason

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 156 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the sale, lease, or grant of

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↑  
Nurt on

*or to a local non-profit  
hatchery corporation  
approved by the regional  
aquaculture association*

*Translation:*

*or to a local non-profit  
hatchery corporation  
approved by the regional  
aquaculture association*

Introduced: 3/1/83  
Referred: Resources  
and Finance

1 IN THE SENATE

BY ELIASON

2

SENATE BILL NO. 156

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

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12 regional aquaculture association formed under AS 16.10.380.



JB 156

Retrieve backup from  
member's file for original  
backup file.





The following individuals are expected to testify on CS  
SB 161 (Finance):

Richard Ramsey, staff to Senator Kerttula, sponsor

John Doyle, Marine Advisory Program, University of  
Alaska may testify

A representative of the Department of Fish & Game may  
testify

STATE OF ALASKA  
FISCAL NOTE

Revision Date 5/24, 1983

5/25/83 H. Trent

I. REQUEST

Bill/Resolution No.: CSSB 161 (Fin.)  
 Title: Salmon Quality Control Education  
 Sponsor: Kerttula  
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: \_\_\_\_\_  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Billie Trent Phone: 465-2600  
 Division: Commissioner's Office Date: 5/24/83  
 Approved by Commissioner: Richard A Neve Date: 5/24/83  
 Department: Environmental Conservation

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

3/8/83

SB 161 "An Act Making an Appropriation to  
The Fishery Industrial Technology Center  
For Salmon Quality Control Education; and  
Providing for an Effective Date"

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
POSITION PAPER

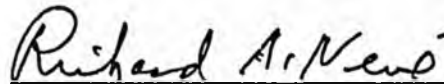
HOUSE FINANCE COMMITTEE

May 24, 1983

The Division of Seafood and Animal Industries has worked with Dr. Jong Lee on this program since its conception approximately a year ago. We feel the program would fill a need for both the industry and our state inspectors, so we support this proposed funding 100%. Should the legislature require in-depth information in this area, we would be pleased to address the issue in total. It is the department's suggestion that these funds be budgeted as soon as possible.

In Alaska there is little education currently offered on the subject of salmon quality control. Normally our inspectors as well as the private sector must go out of the state for seminars, which makes the cost prohibitive as well as limiting the number of persons who are able to obtain this education. An in-state program would also tend to keep Alaska's young people working in the seafood industry, rather than losing them to other industries.

This bill would also provide continuing education for our people in the field now. The division anticipates the results of this education would show a significant decline in deficiencies found during inspections; there would be less detentions of product during production; and the end result would be a higher quality product. More revenue would be created for the state as well as its citizens.



Richard A. Neve'  
Commissioner

RECOMMENDATIONS FOR IMPROVING THE QUALITY  
OF FROZEN AND CANNED SALMON

Report of  
Salmon Quality Control Study Group

Committee Members

James Poor	Harold Hansen
Bill Hall	Roy Alley
Bob Blake	Bob Ditman
Armin Koernig	Bruce Crow
Knute Johnson	Henry Wiese
Lewis Hasbrouck	Wallace H. Noerenberg
Jack Werner	

Senator Jay Kerttula, Chairman

Resource Persons

John Doyle  
Allan Otness  
Walter Yonker

January, 1981



Official Business

# Alaska State Legislature

Senate

Office of the President

January 15, 1981

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Legislative Council  
FROM: Senator Jalmar Kerttula  
SUBJECT: Report of the Salmon Quality Control  
Study Committee

This is a report of the Prince William Sound voluntary quality control compliance pilot project set up by the Salmon Quality Control Study Committee.

The recommendations of the Committee are to continue the pilot project for one more season and to implement a statewide quality control education program.

The Prince William Sound Quality Control Standards were implemented as a pilot project to analyze the quality of fishholds in a relatively moderate area of the State of Alaska, assuming that the appreciation of quality was highest in Southeastern and deteriorated as one progressed westward.

One has to accept that this pilot project was disrupted by the fact that there was no early gillnet season, which did not lend itself to the project, and that the early, unexpectedly high volume pink salmon seine season created a crash mobilization of the fleet which also detracted from cooperation and compliance.

On the whole, with consideration of the problems, I feel it was a very successful experiment. The local processors and the fishermen's organization worked together on this project with enthusiasm prior to the seasons, which displayed the mutual concern for improving or proving the quality of Prince William Sound salmon, and eventually salmon from Alaska.

If this pilot project is carried over to the 1981 season, I feel that significantly better compliance with the program will be seen. Both processors and fishermen will be more aware and prepared for the inspection and timing to create an atmosphere for more and better inspections.

The results of the Prince William Sound inspection program were as follows:

Whitney Fidalgo Fisheries Inc.	inspected 14 boats
Chugach Alaska Fisheries	inspected a questionable number of boats-no report was forwarded to the CAMA office.
Alaska Packers Association	inspected 60 boats
Morpac, Inc.	inspected 42 boats
North Pacific Processors	inspected 38 boats
St. Elias Ocean Products	inspected 82 boats
Miscellaneous Processors	inspected 5 boats
An unknown number of boats were inspected in Valdez	