

LEG. FINANCE - BILLS 1985 - 1986 2264

SB 410 - SB 413 • • 2264

COMMITTEE REPORT
SENATE

FURTHER:

3/13/86

Date _____

Mr. President

The Committee on FINANCE considered SB 410

relating to financing of shore-based fish processors by the
Commercial Fishing and Agriculture Bank.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER:

FINANCE

2/14/86

Date 3/12/86

Mr. President

The Committee on RESOURCES considered SB 410 relating to financing of shore-based fish processors by the Commercial Fishing and Agriculture Bank.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 410 (RES)
new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" ~~NEW~~ FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

Rick Halford NO REC

[Signature]
 Chairman
[Signature]
 Chairman recommendation

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 465-4907

Senate Committee on Resources

March 12, 1986

COMMITTEE ON RESOURCES LETTER OF INTENT FOR SB 410

This legislation is intended to enhance the ability of the Alaska Commercial Fishing and Agriculture Bank to fulfill its legislatively mandated responsibilities by broadening its potential market. It is therefore the intent of the legislature that the term "shore-based fish processors" shall not be interpreted to exclude fish processing corporations whose operations include both shore-based and floating processing facilities. For the purposes of this legislation a fish processing company that operates both shore-based and floating facilities shall be considered to be a shore-based fish processor.

Offered: 3/13/86
Referred: Finance

Original sponsor: Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 410 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to financing of fish processors and
7 agricultural and timber processors and harvesters by
8 the Commercial Fishing and Agriculture Bank; and
9 providing for an effective date."

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

11 * Section 1. FINDINGS. The legislature finds that

12 (1) shore-based fish processing and agricultural and timber
13 processing and harvesting facilities, regardless of ownership, are an
14 essential part of the state economy and provide for the development of a
15 renewable resource tax base vital to many Alaska communities;

16 (2) shore-based fish processing and agricultural and timber
17 processing and harvesting facilities in the state, regardless of ownership,
18 significantly contribute to the economic development and stability of
19 Alaska's communities; and

20 (3) shore-based fish processing and agricultural and timber
21 processing and harvesting facilities in the state, regardless of ownership,
22 employ a significant resident work force and contribute substantially to
23 local community economies through the demand for goods and services.

24 * Sec. 2. AS 44.81.210 is amended by adding a new subsection to read:

25 (c) Notwithstanding (a)(1) of this section, the bank may make a
26 variable or fixed rate loan to a shore-based fish processor, a timber
27 processor or harvester, or an agricultural processor or harvester that
28 does not meet the resident ownership requirements of (a)(1) of this
29 section for capital investment or operating capital if the majority
S

COMMITTEE COPY

1 interest in the processor or harvester is beneficially owned by resi-
2 dents of the United States.

3 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).
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Introduced: 2/14/86
Referred: Resources
and Finance

1 IN THE SENATE

BY ZHAROFF

2 SENATE BILL NO. 410

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to financing of shore-based fish
7 processors by the Commercial Fishing and Agriculture
8 Bank."

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

10 * Section 1. AS 44.81.210 is amended by adding a new subsection to
11 read:

12 (c) Notwithstanding (a)(1) of this section, the bank may make a
13 variable or fixed rate loan to a shore-based fish processor that does
14 not meet the resident ownership requirements of (a)(1) of this section
15 for capital investment or operating capital if the majority interest
16 in the processor is beneficially owned by residents of the United
17 States.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS SB 410 Res
 Title : Financing of Fish Processors by the Commercial Fishing and Agriculture Bank
 Sponsor : Sen. Zharoff
 Requestor : Senate Resources
 Date of Request : 3/12/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Milt Barkef
 Division : Treasury

Phone : 465-2350
 Date : 3/12/86

Approved by Commissioner : [Signature]
 Agency : Revenue

Date : 3/12/86

Distribution (by Agency preparing fiscal note)

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ALASKA STATE LEGISLATURE

14th Legislature 2nd Session

SENATE BILL NO. 410

By ZHAROFF

"An Act relating to financing of shore-based fish processors by the Commercial Fishing and Agriculture bank."

Introduced in the Senate 2/14, 1986

HISTORY IN THE SENATE

1986	Read first time and referred to Committee on										
2 18	RESOURCES, FINANCE										
3 13	Reported back with <i>Resources</i> recommendation that <i>replace w/ps, Lt. Intent, Hy, 6 to pass, 1 no rec, to finance</i>										
	Read second time and										
	Read third time and										
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	<p>Reconsideration</p> <table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed Signed by President Sent to House										
SECRETARY OF THE SENATE											

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed Signed by Speaker Returned to Senate										
CHIEF CLERK OF THE HOUSE											

HISTORY IN THE SENATE

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

1797 Cramer

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 410
 Title : Financing of Fish Processors by the Commercial Fishing and Agriculture Bank
 Sponsor : Sen. Zharoff
 Requestor : Senate Resources
 Date of Request : 3/12/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Milt Barker Phone : 465-2350
 Division : Treasury Date : 3/12/86

Approved by Commissioner : [Signature] Date : 3/12/86
 Agency : Revenue

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No: HB 579
 Title: Financing of Fish Processors by the Commercial Fishing and Agriculture Bank
 Sponsor: Herrmann
 Requestor: House Loans
 Date of Request: February 19, 1986

FISCAL DETAIL
 Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*
 Division: Treasury
 Approved by Commissioner: *Harry A. Stender*
 Agency: Department of Revenue

Phone: 465-2350
 Date: February 21, 1986
 Date: 2/21/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS SB 410 Res
 Title : Financing of Fish Processors by the Commercial Fishing and Agriculture Bank
 Sponsor : Sen. Zharoff
 Requestor : Senate Resources
 Date of Request : 3/12/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
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GRANTS, CLAIMS						
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TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Milt Barker Phone : 465-2350
 Division : Treasury Date : 3/12/86

Approved by Commissioner : [Signature] Date : 3/12/86
 Agency : Revenue

Distribution (by Agency preparing fiscal note)

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Introduced: 2/14/86
Referred: Resources
and Finance

1 IN THE SENATE

BY ZHAROFF

2

SENATE BILL NO. 410

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to financing of shore-based fish

7

processors by the Commercial Fishing and Agriculture

8

Bank."

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

10 * Section 1. AS 44.81.210 is amended by adding a new subsection to

11 read:

12

(c) Notwithstanding (a)(1) of this section, the bank may make a

13

variable or fixed rate loan to a shore-based fish processor that does

14

not meet the resident ownership requirements of (a)(1) of this section

15

for capital investment or operating capital if the majority interest

16

in the processor is beneficially owned by residents of the United

17

States.

Offered: 3/13/86
Referred: Finance

Original sponsor: Zharoff

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 410 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to financing of fish processors and
7 agricultural and timber processors and harvesters by
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14 essential part of the state economy and provide for the development of a
15 renewable resource tax base vital to many Alaska communities;

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17 processing and harvesting facilities in the state, regardless of ownership,
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19 Alaska's communities; and

20 (3) shore-based fish processing and agricultural and timber
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23 local community economies through the demand for goods and services.

24 * Sec. 2. AS 44.81.210 is amended by adding a new subsection to read:

25 (c) Notwithstanding (a)(1) of this section, the bank may make a
26 variable or fixed rate loan to a shore-based fish processor, a timber
27 processor or harvester, or an agricultural processor or harvester that
28 does not meet the resident ownership requirements of (a)(1) of this
29 section for capital investment or operating capital if the majority

1 interest in the processor or harvester is beneficially owned by resi-
2 dents of the United States.
3 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUGH V
JUNEAU, ALASKA, 99811
(907) 485-4907

Senate Committee on Resources

March 12, 1986

COMMITTEE ON RESOURCES LETTER OF INTENT FOR SB 410

This legislation is intended to enhance the ability of the Alaska Commercial Fishing and Agriculture Bank to fulfill its legislatively mandated responsibilities by broadening its potential market. It is therefore the intent of the legislature that the term "shore-based fish processors" shall not be interpreted to exclude fish processing corporations whose operations include both shore-based and floating processing facilities. For the purposes of this legislation a fish processing company that operates both shore-based and floating facilities shall be considered to be a shore-based fish processor.

3/30/86
S (CRA)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 411
Title : An act relating to road maintenance service areas
Sponsor : Falks
Requestor : Devries
Date of Request : March 11, 1986

FISCAL DETAIL

Agency Affected : DOT&PF
BRU : Capital Program
Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

ATTACHED

Prepared by : Charles D. Karella
Division : Plans, Programs, and Budget

Phone : 465-2171
Date : 3/13/86

Approved by Commissioner : [Signature]
Agency : Transportation and Public Facilities

Date : 3/14/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

28 411

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB411

ANALYSIS

The proposed bill is strictly a housekeeping measure and has no fiscal impact on either the operating or capital budget. No additional positions are required.

The proposed bill revised AS 19.30 in five areas:

- 1) AS 19.30.260 and 19.30.280 prohibit funding in those road improvement areas that are financed through the issuance of municipal debt. For clarity, the addition to 19.30.260 should read as follows: Grants to road maintenance service areas under AS 19.30.260 - 19.30.320 are limited to those road maintenance service areas in which road improvement was not financed through the issuance of municipal debt during the three previous fiscal years.
- 2) AS 19.30.290(b) clarifies the fact that road construction can be performed by the municipality.
- 3) AS 19.30.310 changes the due date for reports. This change does not adversely affect the departments capability to submit a combined annual report to the Governor by December 1.
- 4) As 19.30.320(1) clarifies exceptable expenditures related to road improvements by expanding the definition.
- 5) AS 19.30.320(3) clarifies the definition and requirements of a municipality and should be revised as follows to reflect the powers necessary to qualify for a road improvement grant:
 - (3) "municipality" means an organized borough of any class, a unified municipality, or a city of any class, that has road construction and [OR] maintenance powers.

Offered: 3/21/86
Referred: Transportation
Original sponsor: Faiks

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 411 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to road maintenance service areas."

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

8 * Section 1. AS 19.30.260 is amended to read:

9 Sec. 19.30.260. PURPOSE. The purpose of AS 19.30.260 - 19.30.-
10 320 is to facilitate funding for the upgrading, reconstruction, re-
11 habilitation, or paving of existing subdivision roads within a road
12 maintenance service area established under AS 29.35.450 or under a
13 home rule charter. Grants to road maintenance service areas under
14 AS 19.30.260 - 19.30.320 are limited to those road maintenance service
15 areas in which road improvement was not financed through the issuance
16 of municipal debt during the three previous fiscal years.

17 * Sec. 2. AS 19.30.280 is amended to read:

18 Sec. 19.30.280. ELIGIBILITY. (a) After establishing a road
19 maintenance service area under AS 29.35.450, or under a home rule
20 charter, a municipality may apply to the department for a grant as
21 money is available for road improvements, subject to regulations
22 adopted by the department to carry out the provisions of AS 19.30.-
23 260 - 19.30.320. The department shall require a municipality to
24 submit a five-year plan for the upgrading, reconstructing, rehabilita-
25 ting, or paving of maintenance service area roads for approval before
26 October 1 of each fiscal year and to show the source of funds used for
27 road improvement within each road maintenance service area during the
28 prior three fiscal years.

29 (b) A municipality shall establish design standards for

1 construction in a road maintenance service area. An application for a
2 grant for improving an existing road under this section which is
3 constructed after the effective date of this Act [JULY 1, 1984] may
4 not be granted by the department until the existing road meets the
5 minimum design standards of the municipality.

6 * Sec. 3. AS 19.30.290(b) is amended to read:

7 (b) Construction under AS 19.30.260 - 19.30.320 shall be admin-
8 istered by the municipality in which the road maintenance service area
9 is located. Road construction within the road maintenance service
10 area may be performed by the municipality.

11 * Sec. 4. AS 19.30.310 is amended to read:

12 Sec. 19.30.310. REPORT. No later than October [AUGUST] 1 of
13 each year, a municipality that has received money under AS 19.30.270
14 shall submit a report to the department showing the use of the money
15 by the municipality during the preceding fiscal year. No later than
16 December 1 of each year, the department shall prepare and submit to
17 the governor a report showing the use of the money allocated under
18 AS 19.30.270 during the preceding fiscal year.

19 * Sec. 5. AS 19.30.320(1) is amended to read:

20 (1) "construction" or "road improvement" has the meaning
21 given in AS 19.45.001 and includes utility and drainage costs but does
22 not include financing [EXCLUDES FINANCIAL] costs, right-of-way costs
23 except costs of acquiring easements to widen existing roads, and new
24 road construction except for realignment of the road bed within the
25 right-of-way;

26 * Sec. 6. AS 19.30.320(3) is amended to read:

27 (3) "municipality" means an organized borough of any class,
28 a unified municipality, or a city of any class, that has road con-
29 struction and [OR] maintenance powers;

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

3/21/86

Date 4-9-86

Mr. President

The Committee on TRANSPORTATION considered SB 411
relating to road maintenance service areas.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Jan Fair
John D. ...
Joe ...

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman
[Signature]
Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER:

TRSP
FINANCE

2/14/86

Date 3/20/86

Mr. President

The Committee on C&RA considered SB 411
relating to road maintenance service areas.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 411 (C+RA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" ~~NEW~~ FISCAL NOTE
find w/analysis
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

William Sturges
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature] NR

Edna de Vries
 Chairman
[Signature]
 Chairman recommendation

Introduced: 2/14/86
Referred: Community and Regional
Affairs, Transportation
and Finance

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 411

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to road maintenance service areas."

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

8 * Section 1. AS 19.30.260 is amended to read:

9 Sec. 19.30.260. PURPOSE. The purpose of AS 19.30.260 - 19.30.-
10 320 is to facilitate funding for the upgrading, reconstruction, re-
11 habilitation, or paving of existing subdivision roads within a road
12 maintenance service area established under AS 29.35.450 or under a
13 home rule charter. Grants to road maintenance service areas under
14 AS 19.30.260 - 19.30.320 are limited to those road maintenance service
15 areas in which road maintenance was not financed through the issuance
16 of municipal debt during the three previous fiscal years.

17 * Sec. 2. AS 19.30.280 is amended to read:

18 Sec. 19.30.280. ELIGIBILITY. (a) After establishing a road
19 maintenance service area under AS 29.35.450, or under a home rule
20 charter, a municipality may apply to the department for a grant as
21 money is available for road improvements, subject to regulations
22 adopted by the department to carry out the provisions of AS 19.30.-
23 260 - 19.30.320. The department shall require a municipality to
24 submit a five-year plan for the upgrading, reconstructing, rehabilita-
25 ting, or paving of maintenance service area roads for approval before
26 October 1 of each fiscal year and to show the source of funds used for
27 road maintenance within each road maintenance service area during the
28 prior three fiscal years.

29 (b) A municipality shall establish design standards for

1 construction in a road maintenance service area. An application for a
2 grant for improving an existing road under this section which is
3 constructed after the effective date of this Act [JULY 1, 1984] may
4 not be granted by the department until the existing road meets the
5 minimum design standards of the municipality.

6 * Sec. 3. AS 19.30.290(b) is amended to read:

7 (b) Construction under AS 19.30.260 - 19.30.320 shall be admin-
8 istered by the municipality in which the road maintenance service area
9 is located. Road construction within the road maintenance service
10 area may be performed by the municipality.

11 * Sec. 4. AS 19.30.310 is amended to read:

12 Sec. 19.30.310. REPORT. No later than October [AUGUST] 1 of
13 each year, a municipality that has received money under AS 19.30.270
14 shall submit a report to the department showing the use of the money
15 by the municipality during the preceding fiscal year. No later than
16 December 1 of each year, the department shall prepare and submit to
17 the governor a report showing the use of the money allocated under
18 AS 19.30.270 during the preceding fiscal year.

19 * Sec. 5. AS 19.30.320(1) is amended to read:

20 (1) "construction" or "road improvement" has the meaning
21 given in AS 19.45.001 and includes utility and drainage costs but does
22 not include financing [EXCLUDES FINANCIAL] costs, right-of-way costs
23 except costs of acquiring easements to widen existing roads, and new
24 road construction except for realignment of the road bed within the
25 right-of-way;

26 * Sec. 6. AS 19.30.320(3) is amended to read:

27 (3) "municipality" means an organized borough of any class,
28 a unified municipality, or a city of any class, that has road con-
29 struction or maintenance powers;

COMMITTEE REPORT

SENATE

FURTHER:

4/3/86

Date _____

Mr. President

The Committee on FINANCE considered SB 413

relating to illegally controlled enterprises and the forfeiture of property that is used in violation of state law; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/14/86

Date 4/2/86

Mr. President

The Committee on JUDICIARY considered SB 413

~~relating to~~ illegally controlled enterprises and the forfeiture of property that is used in violation of state law; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Jan Parks

Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

3 sigler - N/R. Do we really need this type legislation?

Patrick Boyley

Chairman

DO PASS

Chairman recommendation

Introduced: 2/14/86
Referred: Judiciary
and Finance

BY RODEY, FAIKS,
AND KERTTULA

1 IN THE SENATE

2 SENATE BILL NO. 413

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to illegally controlled enterprises
7 and the forfeiture of property that is used in vio-
8 lation of state law; and providing for an effective
9 date."

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

11 * Section 1. DECLARATION OF LEGISLATIVE PURPOSE. The legislature has
12 determined that the acquisition, establishment, or operation of legitimate
13 and illegitimate enterprises in Alaska through a pattern of criminal activ-
14 ity is inimical to the continued health of our economic and social systems.
15 The purpose of this Act is to provide appropriate penalties and severe
16 financial disincentives that can be applied to combat this type of conduct.
17 The legislature intends that this Act be liberally construed to effectuate
18 its remedial purpose.

19 * Sec. 2. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 59. ILLEGALLY CONTROLLED ENTERPRISES.

21 ARTICLE 1. PROHIBITED ACTIVITIES.

22 Sec. 11.59.010. UNLAWFUL ACTS. It is unlawful for a person to

23 (1) acquire or maintain, directly or indirectly, an inter-
24 est in or control of an enterprise through racketeering;

25 (2) participate in or conduct, directly or indirectly, the
26 affairs of an enterprise through racketeering; or

27 (3) use or invest property derived, directly or indirectly,
28 from racketeering, or the proceeds of that property, to acquire or
29 maintain an interest in or control of an enterprise or to participate
S

1 in or conduct the affairs of an enterprise.

2 Sec. 11.59.030. PROOF OF RACKETEERING. (a) The instances of
3 illegal activity used to establish racketeering must include

4 (1) one instance of illegal activity that is in violation
5 of state law;

6 (2) one instance of illegal activity that occurred after
7 the effective date of this Act; and

8 (3) one instance of illegal activity that was committed
9 three years before or after the alleged acquisition or maintenance of
10 an interest in or control of the enterprise, or the alleged participa-
11 tion in or conducting of the affairs of the enterprise as described in
12 AS 11.59.010.

13 (b) The requirements of (a) of this section may be satisfied by
14 a single instance of illegal activity.

15 (c) Past illegal activity may be used to establish racketeering
16 if less than five years have elapsed between the date of the most
17 recent instance of illegal activity and the immediately preceding
18 instance of illegal activity.

19 (d) Illegal activity that is used to establish racketeering may
20 be proved by

21 (1) a certified copy of a judgment of conviction;

22 (2) proof beyond a reasonable doubt in a criminal prose-
23 cution under AS 11.59.040 or 11.59.050; or

24 (3) proof by a preponderance of the evidence in a proceed-
25 ing under AS 11.59.070 - 11.59.120.

26 (e) For purposes of calculating the three-year period specified
27 in (a)(3) of this section and the five-year period specified in (c) of
28 this section, a period of imprisonment, probation, parole, conditional
29 executive clemency, suspended imposition of sentence, formal deferred

1 prosecution or formal pretrial diversion must be excluded.

2 ARTICLE 2. CRIMES INVOLVING ILLEGALLY
3 CONTROLLED ENTERPRISES.

4 Sec. 11.59.040. ILLEGAL CONTROL OF AN ENTERPRISE IN THE FIRST
5 DEGREE. (a) A person commits the crime of illegal control of an
6 enterprise in the first degree if the person violates AS 11.59.050,
7 and if one of the instances of illegal activity used to establish
8 racketeering was

9 (1) an unclassified or class A felony in the state; or

10 (2) a crime in the state or in another jurisdiction having
11 elements similar to a current class A felony or unclassified felony in
12 the state.

13 (b) Illegal control of an enterprise in the first degree is an
14 unclassified felony and is punishable as specified in AS 12.55.125(i).

15 Sec. 11.59.050. ILLEGAL CONTROL OF AN ENTERPRISE IN THE SECOND
16 DEGREE. (a) A person commits the crime of illegal control of an
17 enterprise in the second degree if the person violates AS 11.59.010 or
18 attempts or solicits a violation of AS 11.59.010.

19 (b) Illegal control of an enterprise in the second degree is a
20 class A felony.

21 Sec. 11.59.060. CHARGING UNDERLYING ACT. In a criminal prose-
22 cution under AS 11.59.040 or 11.59.050, a violation of a criminal law
23 that is used to prove racketeering may be charged as a separate count
24 in the same indictment or information as the violation of AS 11.59.040
25 or 11.59.050.

26 ARTICLE 3. CIVIL REMEDIES.

27 Sec. 11.59.070. EFFECT OF CONVICTION ON OTHER PROCEEDINGS. A
28 criminal conviction for a violation of AS 11.59.040 or 11.59.050
29 estops the defendant from denying the essential allegations of the

1 crime in a subsequent proceeding brought by a party under this chap-
2 ter, a forfeiture proceeding under AS 09.50, or under another pro-
3 vision of law.

4 Sec. 11.59.080. CIVIL ACTION FOR TREBLE DAMAGES. (a) A person,
5 including the state or other governmental agency, that is injured in
6 business or property by reason of a violation of AS 11.59.010 may
7 bring an action in the superior court for three times the amount of
8 damages sustained.

9 Sec. 11.59.090. PROPERTY SUBJECT TO FORFEITURE. Property, or
10 the proceeds of property, is subject to forfeiture to the state under
11 AS 09.50 if

12 (1) acquired or maintained in violation of, or in the
13 course of violating, AS 11.59.010;

14 (2) used or invested in violation of, or in the course of
15 violating, AS 11.59.010; or

16 (3) derived, directly or indirectly, from racketeering.

17 Sec. 11.59.100. INJUNCTIVE RELIEF. (a) In addition to any
18 other action authorized by law, the attorney general may bring a
19 separate ex parte action in the superior court to enjoin a violation
20 of AS 11.59.010. The superior court may prevent or restrain viola-
21 tions of AS 11.59.010 by issuing appropriate temporary or permanent
22 orders that may include divestiture of an interest in an enterprise,
23 performance bonds, reasonable restrictions on future activities or in-
24 vestments, the attachment and freezing of assets, prohibitions against
25 engaging in the same type of activities as the enterprise engaged in,
26 and dissolution or reorganization of an enterprise, making appropriate
27 provision for the rights of innocent persons.

28 (b) At any time after a civil or criminal proceeding arising out
29 of a violation of AS 11.59.010 has been instituted, the superior court

1 may issue appropriate orders and injunctive relief that may include
2 the remedies listed in (a) of this section, or another order to pre-
3 vent disposal or diminution in value of property subject to forfeiture
4 under AS 11.59.090(1) or (2) or subject to a claim for damages under
5 AS 11.59.080.

6 (c) Upon a criminal conviction or a civil judgment, including an
7 order of forfeiture, arising out of a violation of AS 11.59.010, the
8 superior court may issue appropriate orders that may include the
9 remedies listed in (a) of this section.

10 Sec. 11.59.110. CIVIL INVESTIGATIVE DEMAND. (a) Whenever there
11 is reason to believe that a person or enterprise may be in possession,
12 custody, or control of a document or other material that may be rele-
13 vant to an investigation relating to a violation of AS 11.59.010, the
14 attorney general may, before the institution of a civil or criminal
15 proceeding, issue a written investigative demand requiring the produc-
16 tion of the material for examination.

17 (b) A demand for material must

18 (1) state the nature of the conduct that is under inves-
19 tigation;

20 (2) describe the class or classes of documentary or other
21 material to be produced with such definiteness and certainty as to
22 permit the material to be readily identified; and

23 (3) state that the demand must be complied with immediately
24 if there is reason to believe that the material sought may be con-
25 cealed, destroyed, or tampered with, or specify a date that will
26 provide a reasonable period of time within which the material may be
27 assembled and made available for inspection and copying or reproduc-
28 tion.

29 (c) Service of a demand for materials under this section may be

1 made by

2 (1) delivering a copy to a partner, executive officer,
3 managing agent, or general agent of an enterprise, or to an agent
4 authorized to receive service of process on behalf of an enterprise,
5 or to an individual person;

6 (2) delivering a copy to the principal office or place of
7 business of the person to be served; or

8 (3) depositing a copy in the United States mail, by regis-
9 tered or certified mail addressed to the principal office or place of
10 business of the person to be served.

11 (d) A person upon whom a demand issued under this section has
12 been served shall make the material available for inspection and
13 copying by the attorney general at the principal place of business of
14 the person, or at another place the attorney general may direct.
15 Failure to comply with a civil investigative demand under this section
16 is punishable in the superior court as contempt, to the same extent as
17 contempt of an order issued from that court.

18 (e) The attorney general may take physical possession of the
19 materials produced, and is responsible for their return under this
20 section. Material may not be made available for examination by an
21 individual other than the attorney general, without the consent of the
22 person who produced the material. Under the terms the attorney gen-
23 eral prescribes, documentary material must be available for examina-
24 tion by the person who produced the material, or an authorized rep-
25 resentative of that person.

26 (f) Within 90 days after the production of an original document
27 or other material, or upon the completion of the investigation for
28 which the original material was produced under this section, or upon
29 completion of a case or proceeding arising from an investigation,

1 whichever is sooner, the attorney general shall return all original
2 material that has not passed into the control of a court or grand
3 jury. For good cause, the superior court may grant the attorney
4 general an extension of time to return the material.

5 Sec. 11.59.120. ATTEMPT OR SOLICITATION TO VIOLATE AS 11.59.010.
6 In AS 11.59.070 - 11.59.120, the term "violation of AS 11.59.010", or
7 a similar phrase, includes an attempt or solicitation under AS 11.31
8 to violate AS 11.59.010.

9 ARTICLE 4. GENERAL PROVISIONS.

10 Sec. 11.59.900. DEFINITIONS. (a) In this chapter, unless the
11 context requires otherwise,

12 (1) "enterprise" includes an individual, partnership,
13 corporation, association, or other legal entity, and a union or group
14 of persons associated in fact although not a legal entity;

15 (2) "illegal activity" means

16 (A) a felony against the person under AS 11.41;

17 (B) a crime against property under AS 11.46, punish-
18 able as a class B felony;

19 (C) a felony against public administration under
20 AS 11.56, a felony against public order under AS 11.61, a felony
21 involving alcoholic beverages under AS 04 or a felony involving
22 securities or takeover bids under AS 45.55 or 45.57;

23 (D) a crime involving controlled substances under
24 AS 11.71, punishable as an unclassified or class A or B felony;

25 (E) promoting prostitution in the first degree under
26 AS 11.66.110, promoting gambling in the first degree under
27 AS 11.66.210; and possession of gambling records in the first
28 degree under AS 11.66.230;

29 (F) felony conduct that is defined as "racketeering

1 activity" under 18 U.S.C. 1961(1);

2 (3) "property" means a thing of value, including real or
3 personal property, claims against or interests in business or proper-
4 ty, contractual rights, securities, income, profits, an interest in an
5 enterprise, or other business or financial interest;

6 (4) "racketeering" means a pattern of illegal activity that
7 involves two or more instances of illegal activity.

8 (b) In this section, a "pattern" of illegal activity means that
9 the instances of illegal activity had the same or similar purposes,
10 results, victims, participants, or methods of commission, or were
11 interrelated by distinguishing characteristics.

12 * Sec. 3. AS 09.50 is amended by adding new sections to read:

13 ARTICLE 7. FORFEITURE.

14 Sec. 09.50.400. PROCEDURES APPLICABLE IN FORFEITURE PROCEEDINGS.

15 The state is authorized to initiate a proceeding to forfeit property
16 if the property is made subject to forfeiture by state law. Unless
17 otherwise specifically provided in a state law authorizing forfeiture,
18 the procedures applicable to the forfeiture of property are specified
19 in AS 09.50.400 - 09.50.480.

20 Sec. 09.50.410. SEIZURE AND CUSTODY OF PROPERTY. (a) Property
21 may be seized by a peace officer under an order issued by a court upon
22 a showing of probable cause that the property is subject to forfei-
23 ture. The property may be seized without a court order if

24 (1) constitutionally permissible or otherwise authorized by
25 law;

26 (2) the property has been the subject of a judgment in
27 favor of the state in a forfeiture proceeding; or

28 (3) there is probable cause to believe that the property is
29 subject to forfeiture and is easily movable; property seized under

1 this paragraph may not be held for more than 48 hours without a court
2 order, which may be obtained in an ex parte proceeding, based on
3 probable cause that the property is subject to forfeiture.

4 (b) Property seized under (a) of this section must be held in
5 the custody of the commissioner of public safety or a municipal law
6 enforcement agency authorized by the commissioner to retain custody,
7 subject only to the orders and decrees of the court. If property is
8 seized under this section, the commissioner of public safety or an
9 authorized municipal law enforcement agency may

10 (1) place the property under seal;

11 (2) remove the property to a place designated by the court;

12 or

13 (3) take custody of the property and remove it to an appro-
14 priate location for disposition in accordance with law.

15 (c) Within 10 days after a seizure under this section, the
16 commissioner of public safety or authorized municipal law enforcement
17 agency shall make an inventory of property seized, including con-
18 trolled substances, and shall estimate the value of the items seized
19 other than controlled substances. In this section, "controlled sub-
20 stance" includes "imitation controlled substance" as defined in
21 AS 11.73.099.

22 Sec. 09.50.420. NOTICE OF SEIZURE AND FORFEITURE ACTION; AN-
23 SWERS. (a) Within 30 days after a seizure under AS 09.50.410, the
24 commissioner of public safety shall, in a manner authorized for ser-
25 vice of process under rules of civil procedure, give notice of the
26 seizure to any person known to have an interest in the property if it
27 has an estimated value of \$500 or more, or whose interest in the
28 property is ascertainable from official registration numbers, li-
29 censes, or other state, federal, or municipal numbers on the property.

1 The notice required by this subsection need not be given if the state
2 has filed a motion to forfeit or a complaint under AS 09.50.430(a)
3 within 30 days after seizure of the property.

4 (b) Within 30 days after the filing of a civil in rem action or
5 a motion to forfeit in a civil or criminal action, the commissioner of
6 public safety shall,

7 (1) in a manner authorized for service of process under
8 rules of civil procedure, provide a copy of the complaint or motion to
9 any person known to have an interest in the property, other than the
10 defendant, when a motion for forfeiture has been filed in a criminal
11 proceeding; and

12 (2) begin to publish notice of the action to forfeit prop-
13 erty with an estimated value of \$500 or more in a newspaper of general
14 circulation in the judicial district where the property was seized, or
15 if the property has not been seized, the judicial district where the
16 forfeiture action was filed; if no newspaper is published in that
17 judicial district, the notice must be published in a newspaper pub-
18 lished in the state and distributed in that judicial district; the
19 notice must be published once each week during four consecutive calen-
20 dar weeks.

21 (c) Upon service of process or publication under (b) of this
22 section, a person claiming an interest in the property, or a defendant
23 in a criminal proceeding who has been served with a motion to forfeit,
24 shall file an answer within the time permitted for answering civil
25 complaints under applicable rules of civil procedure. The answer must
26 set out the reasons why the property is not subject to forfeiture or
27 why the claimant is entitled to remission under AS 09.50.470. The
28 answer must include the nature of the claimant's interest in the
29 property, the date it was acquired, the consideration paid, and the

1 circumstances under which it was acquired. If an answer is not filed
2 within the required time period, the property must be forfeited to the
3 state without further proceedings or showings.

4 (d) The notice requirements of this section do not apply to
5 controlled substances under AS 11.71 or imitation controlled sub-
6 stances under AS 11.73.

7 Sec. 09.50.430. PROCEEDINGS RESULTING IN FORFEITURE; BURDEN OF
8 PROOF. (a) A forfeiture proceeding is initiated by the state by the
9 filing of a motion to forfeit in a criminal case or in a civil pro-
10 ceeding relating to the conduct making the property subject to forfei-
11 ture, or by the filing of a complaint in a separate in rem proceeding.

12 (b) Questions of fact or law in a forfeiture proceeding under
13 this section must be determined by the court sitting without a jury.
14 In a forfeiture proceeding the state must prove by a preponderance of
15 the evidence that the property is subject to forfeiture under the law
16 authorizing forfeiture. A forfeiture proceeding, including discovery,
17 may be held in abeyance until the conclusion of a pending criminal
18 action relating to the conduct making the property subject to forfei-
19 ture.

20 Sec. 09.50.440. DEFENSES EXEMPTED. It is not a defense to a
21 proceeding to forfeit property under AS 09.50.430 that a criminal
22 proceeding has resulted in a conviction of a lesser included offense
23 or an acquittal.

24 Sec. 09.50.450. PETITION FOR RELEASE OF SEIZED PROPERTY. (a) A
25 claimant may at any time petition the court for release of property
26 seized under AS 09.50.410 if the claimant

27 (1) has filed a timely answer under AS 09.50.420(c); or

28 (2) before the initiation of a forfeiture action, files a
29 notice of claim setting out the nature of the claimant's interest in

1 the property, the date it was acquired, the consideration paid, and
2 the circumstances under which it was acquired.

3 (b) The court may release property that is not likely to be used
4 as evidence by the state or a defendant in a criminal proceeding, or
5 by any party in a civil proceeding, if

6 (1) the claimant gives adequate assurance that the property
7 will remain subject to the court's jurisdiction;

8 (2) the court finds that the release is in the best inter-
9 ests of the state; and

10 (3) the claimant provides a bond or other valid and equiva-
11 lent security equal to twice the estimated value of the property.

12 Sec. 09.50.460. PETITION FOR DISPOSITION OF SEIZED PROPERTY.

13 (a) The state may petition the court for disposition of seized prop-
14 erty before the termination of court proceedings. A claimant may also
15 seek a petition for disposition before the termination of court pro-
16 ceedings if the claimant

17 (1) has filed a timely answer under AS 09.50.420(c); or

18 (2) before the initiation of a forfeiture action, files a
19 notice of claim setting out the nature of the claimant's interest in
20 the property, the date it was acquired, the consideration paid, and
21 the circumstances under which it was acquired.

22 (b) The court may grant a petition for disposition if the prop-
23 erty is not likely to be used as evidence by the state or a defendant
24 in a criminal proceeding, or by a party in a civil proceeding, and the
25 court finds that the disposition is in the best interests of the state
26 and the preservation and maintenance of the value of the property
27 seized. Proceeds from the disposition plus interest to the date of
28 termination of the court proceedings become the subject of the forfei-
29 ture action.

1 Sec. 09.50.470. FORFEITURE AND REMISSION. (a) Once the state
2 has established that property is subject to forfeiture under the law
3 authorizing forfeiture, the property must be forfeited to the state,
4 except that a claimant who has filed an answer under AS 09.50.420(c)
5 may prove by a preponderance of the evidence that the claimant is
6 entitled to remission because the claimant

7 (1) has a valid interest in the property, acquired in good
8 faith;

9 (2) did not participate in the conduct that resulted in the
10 property being subject to forfeiture; and

11 (3) did not know or have reasonable cause to believe that
12 the property had been or would be used or derived in a manner making
13 the property subject to forfeiture.

14 (b) Upon a showing that a claimant is entitled to remission
15 under (a) of this section, the court shall order that

16 (1) if the claimant is entitled to the property, it must be
17 delivered to the claimant immediately;

18 (2) if the claimant is entitled to some value less than the
19 total value of the property, the claimant may choose to receive either
20 the value of the interest or, upon payment of the difference in value,
21 the entire property.

22 (c) The court may, as part of a sentence, or as a condition of a
23 probation or suspended imposition of sentence, order the payment of
24 reasonable maintenance, storage, disposal, publication, attorney fees,
25 or other costs associated with the forfeiture or remission of prop-
26 erty.

27 Sec. 09.50.480. STATE DISPOSAL OF FORFEITED PROPERTY. Property
28 forfeited under this chapter, other than controlled substances, must
29 be disposed of by the commissioner of administration in accordance

1 with applicable law. Controlled substances and imitation controlled
2 substances must be disposed of under AS 17.30.126. The commissioner
3 of administration may, consistent with other applicable law,

4 (1) destroy property harmful to the public;

5 (2) sell the property and use the proceeds for payment of
6 all proper expenses of the proceedings for forfeiture and sale, in-
7 cluding expenses of seizure, custody, and court costs;

8 (3) take custody of the property and authorize its use in
9 the enforcement of the law or transfer it to another agency of the
10 state or a political subdivision of the state for a use in furtherance
11 of the administration of justice;

12 (4) take custody of the property and remove it for disposi-
13 tion in accordance with law;

14 (5) forward it to the United States Department of Justice
15 for disposition; or

16 (6) transfer ownership of an aircraft to the Alaska Wing,
17 Civil Air Patrol.

18 * Sec. 4. AS 11.41.520 is amended by adding a new subsection to read:

19 (e) As used in this section, "obtains the property of another"
20 includes the collection of a debt that was undertaken with the express
21 or implied understanding between the debtor and the creditor that
22 delay in making repayment, or failure to make repayment, could result
23 in commission of any of the acts described in (a)(1) - (7) of this
24 section.

25 * Sec. 5. AS 11.66.270 is amended to read:

26 Sec. 11.66.270. FORFEITURE. If used in violation of AS 11.66.-
27 200 - 11.66.280, the following property is subject to forfeiture under
28 AS 09.50 [SHALL BE FORFEITED]:

29 (1) a gambling device or gambling record;

1 (2) money, not found on the person, used as a bet or stake;

2 (3) money used as a bet or stake which is found on the
3 person of one who conducts, finances, manages, supervises, directs, or
4 owns all or part of an unlawful gambling enterprise.

5 * Sec. 6. AS 11.73.060(a) is amended to read:

6 (a) Property used during or in aid of a violation of this chap-
7 ter may be forfeited to the state to the extent permitted under and in
8 accordance with the provisions of AS 09.50 and AS 17.30.110 - 17.30.-
9 126.

10 * Sec. 7. AS 12.55.035(b) is amended to read:

11 (b) Upon conviction of an offense, a defendant who is not an
12 organization may be sentenced to pay, unless otherwise specified in
13 the provision of law defining the offense, a fine of no more than

14 (1) \$75,000 for an unclassified felony [MURDER IN THE FIRST
15 OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR
16 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE];

17 (2) \$50,000 for a class A, B, or C felony;

18 (3) \$5,000 for a class A misdemeanor;

19 (4) \$1,000 for a class B misdemeanor;

20 (5) \$300 for a violation.

21 * Sec. 8. AS 12.55.125(i) is amended to read:

22 (i) A defendant convicted of illegal control of an enterprise in
23 the first degree, sexual assault in the first degree or sexual abuse
24 of a minor in the first degree may be sentenced to a definite term of
25 imprisonment of not more than 30 years, and shall be sentenced to the
26 following presumptive terms, subject to adjustment as provided in
27 AS 12.55.155 - 12.55.175:

28 (1) if the offense is a first felony conviction and does
29 not involve circumstances described in (2) of this subsection, eight

1 years;

2 (2) if the offense is a first felony conviction, and the
3 defendant possessed a firearm, used a dangerous instrument, or caused
4 serious physical injury during the commission of the offense, 10
5 years;

6 (3) if the offense is a second felony conviction, 15 years;

7 (4) if the offense is a third felony conviction, 25 years.

8 * Sec. 9. AS 17.30.110 is repealed and reenacted to read:

9 Sec. 17.30.110. ITEMS SUBJECT TO FORFEITURE. (a) The following
10 property is subject to forfeiture under AS 09.50 and AS 17.30.126:

11 (1) a controlled substance that has been manufactured,
12 distributed, dispensed, acquired, or possessed in violation of this
13 chapter or AS 11.71;

14 (2) raw materials, products, and equipment that are used or
15 intended for use in manufacturing, distributing, compounding, process-
16 ing, delivering, importing, or exporting a controlled substance in
17 violation of this chapter or AS 11.71;

18 (3) property that is used or intended for use as a con-
19 tainer for property described in (1) or (2) of this section;

20 (4) a conveyance, including but not limited to aircraft,
21 vehicles, or vessels, that has been used or is intended for use in
22 transporting or in any manner in facilitating the transportation,
23 sale, receipt, possession, or concealment of property described in (1)
24 or (2) of this section in violation of a felony offense under this
25 chapter or AS 11.71;

26 (5) books, records, and research products and materials,
27 including formulas, microfilm, tapes, and data, that are used in
28 violation of this chapter or AS 11.71;

29 (6) money, securities, negotiable instruments, or other

1 property

2 (A) furnished by a person in exchange for a controlled
3 substance in violation of this chapter or AS 11.71;

4 (B) used to facilitate a violation of this chapter or
5 AS 11.71; or

6 (C) that constitute proceeds derived from a violation
7 of this chapter or AS 11.71; and

8 (7) a firearm carried during, or used in furtherance of a
9 violation of this chapter or AS 11.71.

10 (b) In this section, "violation of this chapter or AS 11.71"
11 includes an attempt or solicitation under AS 11.31 to violate this
12 chapter or AS 11.71.

13 * Sec. 10. AS 17.30.126 is amended by adding a new subsection to read:

14 (c) As used in this section, "controlled substance" includes
15 "imitation controlled substance" as defined in AS 11.73.099.

16 * Sec. 11. AS 17.30.112 - 17.30.124 are repealed.

17 * Sec. 12. This Act takes effect January 1, 1987.

ALASKA STATE LEGISLATURE

.14th... Legislature ..2nd... Session

SENATE BILL..... NO. ...413.

By RODEY... FAIKS... KERTTULA.....

"An Act relating to illegally controlled enterprises and the forfeiture of property that is used in violation of state law; and providing for an effective date."

Introduced in the Senate .2/14...., 1986.

HISTORY IN THE SENATE

1986

Read first time and referred to Committee on

14 JUDICIARY, FINANCE

3 Reported back with *Judiciary* recommendation that *3 do pass*
1 no rec, to Finance.
Fin.

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Introduced: 2/14/86
Referred: Judiciary
and Finance

BY RODEY, FAIKS,
AND KERTTULA

1 IN THE SENATE

2 SENATE BILL NO. 413

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to illegally controlled enterprises
7 and the forfeiture of property that is used in vio-
8 lation of state law; and providing for an effective
9 date."

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

11 * Section 1. DECLARATION OF LEGISLATIVE PURPOSE. The legislature has
12 determined that the acquisition, establishment, or operation of legitimate
13 and illegitimate enterprises in Alaska through a pattern of criminal activ-
14 ity is inimical to the continued health of our economic and social systems.
15 The purpose of this Act is to provide appropriate penalties and severe
16 financial disincentives that can be applied to combat this type of conduct.
17 The legislature intends that this Act be liberally construed to effectuate
18 its remedial purpose.

19 * Sec. 2. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 59. ILLEGALLY CONTROLLED ENTERPRISES.

21 ARTICLE 1. PROHIBITED ACTIVITIES.

22 Sec. 11.59.010. UNLAWFUL ACTS. It is unlawful for a person to

23 (1) acquire or maintain, directly or indirectly, an inter-
24 est in or control of an enterprise through racketeering;

25 (2) participate in or conduct, directly or indirectly, the
26 affairs of an enterprise through racketeering; or

27 (3) use or invest property derived, directly or indirectly,
28 from racketeering, or the proceeds of that property, to acquire or
29 maintain an interest in or control of an enterprise or to participate

1 in or conduct the affairs of an enterprise.

2 Sec. 11.59.030. PROOF OF RACKETEERING. (a) The instances of
3 illegal activity used to establish racketeering must include

4 (1) one instance of illegal activity that is in violation
5 of state law;

6 (2) one instance of illegal activity that occurred after
7 the effective date of this Act; and

8 (3) one instance of illegal activity that was committed
9 three years before or after the alleged acquisition or maintenance of
10 an interest in or control of the enterprise, or the alleged participa-
11 tion in or conducting of the affairs of the enterprise as described in
12 AS 11.59.010.

13 (b) The requirements of (a) of this section may be satisfied by
14 a single instance of illegal activity.

15 (c) Past illegal activity may be used to establish racketeering
16 if less than five years have elapsed between the date of the most
17 recent instance of illegal activity and the immediately preceding
18 instance of illegal activity.

19 (d) Illegal activity that is used to establish racketeering may
20 be proved by

21 (1) a certified copy of a judgment of conviction;

22 (2) proof beyond a reasonable doubt in a criminal prose-
23 cution under AS 11.59.040 or 11.59.050; or

24 (3) proof by a preponderance of the evidence in a proceed-
25 ing under AS 11.59.070 - 11.59.120.

26 (e) For purposes of calculating the three-year period specified
27 in (a)(3) of this section and the five-year period specified in (c) of
28 this section, a period of imprisonment, probation, parole, conditional
29 executive clemency, suspended imposition of sentence, formal deferred

1 prosecution or formal pretrial diversion must be excluded.

2 ARTICLE 2. CRIMES INVOLVING ILLEGALLY
3 CONTROLLED ENTERPRISES.

4 Sec. 11.59.040. ILLEGAL CONTROL OF AN ENTERPRISE IN THE FIRST
5 DEGREE. (a) A person commits the crime of illegal control of an
6 enterprise in the first degree if the person violates AS 11.59.050,
7 and if one of the instances of illegal activity used to establish
8 racketeering was

- 9 (1) an unclassified or class A felony in the state; or
10 (2) a crime in the state or in another jurisdiction having
11 elements similar to a current class A felony or unclassified felony in
12 the state.

13 (b) Illegal control of an enterprise in the first degree is an
14 unclassified felony and is punishable as specified in AS 12.55.125(i).

15 Sec. 11.59.050. ILLEGAL CONTROL OF AN ENTERPRISE IN THE SECOND
16 DEGREE. (a) A person commits the crime of illegal control of an
17 enterprise in the second degree if the person violates AS 11.59.010 or
18 attempts or solicits a violation of AS 11.59.010.

19 (b) Illegal control of an enterprise in the second degree is a
20 class A felony.

21 Sec. 11.59.060. CHARGING UNDERLYING ACT. In a criminal prose-
22 cution under AS 11.59.040 or 11.59.050, a violation of a criminal law
23 that is used to prove racketeering may be charged as a separate count
24 in the same indictment or information as the violation of AS 11.59.040
25 or 11.59.050.

26 ARTICLE 3. CIVIL REMEDIES.

27 Sec. 11.59.070. EFFECT OF CONVICTION ON OTHER PROCEEDINGS. A
28 criminal conviction for a violation of AS 11.59.040 or 11.59.050
29 estops the defendant from denying the essential allegations of the

1 crime in a subsequent proceeding brought by a party under this chap-
2 ter, a forfeiture proceeding under AS 09.50, or under another pro-
3 vision of law.

4 Sec. 11.59.080. CIVIL ACTION FOR TREBLE DAMAGES. (a) A person,
5 including the state or other governmental agency, that is injured in
6 business or property by reason of a violation of AS 11.59.010 may
7 bring an action in the superior court for three times the amount of
8 damages sustained.

9 Sec. 11.59.090. PROPERTY SUBJECT TO FORFEITURE. Property, or
10 the proceeds of property, is subject to forfeiture to the state under
11 AS 09.50 if

12 (1) acquired or maintained in violation of, or in the
13 course of violating, AS 11.59.010;

14 (2) used or invested in violation of, or in the course of
15 violating, AS 11.59.010; or

16 (3) derived, directly or indirectly, from racketeering.

17 Sec. 11.59.100. INJUNCTIVE RELIEF. (a) In addition to any
18 other action authorized by law, the attorney general may bring a
19 separate ex parte action in the superior court to enjoin a violation
20 of AS 11.59.010. The superior court may prevent or restrain viola-
21 tions of AS 11.59.010 by issuing appropriate temporary or permanent
22 orders that may include divestiture of an interest in an enterprise,
23 performance bonds, reasonable restrictions on future activities or in-
24 vestments, the attachment and freezing of assets, prohibitions against
25 engaging in the same type of activities as the enterprise engaged in,
26 and dissolution or reorganization of an enterprise, making appropriate
27 provision for the rights of innocent persons.

28 (b) At any time after a civil or criminal proceeding arising out
29 of a violation of AS 11.59.010 has been instituted, the superior court

1 may issue appropriate orders and injunctive relief that may include
2 the remedies listed in (a) of this section, or another order to pre-
3 vent disposal or diminution in value of property subject to forfeiture
4 under AS 11.59.090(1) or (2) or subject to a claim for damages under
5 AS 11.59.080.

6 (c) Upon a criminal conviction or a civil judgment, including an
7 order of forfeiture, arising out of a violation of AS 11.59.010, the
8 superior court may issue appropriate orders that may include the
9 remedies listed in (a) of this section.

10 Sec. 11.59.110. CIVIL INVESTIGATIVE DEMAND. (a) Whenever there
11 is reason to believe that a person or enterprise may be in possession,
12 custody, or control of a document or other material that may be rele-
13 vant to an investigation relating to a violation of AS 11.59.010, the
14 attorney general may, before the institution of a civil or criminal
15 proceeding, issue a written investigative demand requiring the produc-
16 tion of the material for examination.

17 (b) A demand for material must

18 (1) state the nature of the conduct that is under inves-
19 tigation;

20 (2) describe the class or classes of documentary or other
21 material to be produced with such definiteness and certainty as to
22 permit the material to be readily identified; and

23 (3) state that the demand must be complied with immediately
24 if there is reason to believe that the material sought may be con-
25 cealed, destroyed, or tampered with, or specify a date that will
26 provide a reasonable period of time within which the material may be
27 assembled and made available for inspection and copying or reproduc-
28 tion.

29 (c) Service of a demand for materials under this section may be

1 made by

2 (1) delivering a copy to a partner, executive officer,
3 managing agent, or general agent of an enterprise, or to an agent
4 authorized to receive service of process on behalf of an enterprise,
5 or to an individual person;

6 (2) delivering a copy to the principal office or place of
7 business of the person to be served; or

8 (3) depositing a copy in the United States mail, by regis-
9 tered or certified mail addressed to the principal office or place of
10 business of the person to be served.

11 (d) A person upon whom a demand issued under this section has
12 been served shall make the material available for inspection and
13 copying by the attorney general at the principal place of business of
14 the person, or at another place the attorney general may direct.
15 Failure to comply with a civil investigative demand under this section
16 is punishable in the superior court as contempt, to the same extent as
17 contempt of an order issued from that court.

18 (e) The attorney general may take physical possession of the
19 materials produced, and is responsible for their return under this
20 section. Material may not be made available for examination by an
21 individual other than the attorney general, without the consent of the
22 person who produced the material. Under the terms the attorney gen-
23 eral prescribes, documentary material must be available for examina-
24 tion by the person who produced the material, or an authorized rep-
25 resentative of that person.

26 (f) Within 90 days after the production of an original document
27 or other material, or upon the completion of the investigation for
28 which the original material was produced under this section, or upon
29 completion of a case or proceeding arising from an investigation,

1 activity" under 18 U.S.C. 1961(1);

2 (3) "property" means a thing of value, including real or
3 personal property, claims against or interests in business or proper-
4 ty, contractual rights, securities, income, profits, an interest in an
5 enterprise, or other business or financial interest;

6 (4) "racketeering" means a pattern of illegal activity that
7 involves two or more instances of illegal activity.

8 (b) In this section, a "pattern" of illegal activity means that
9 the instances of illegal activity had the same or similar purposes,
10 results, victims, participants, or methods of commission, or were
11 interrelated by distinguishing characteristics.

12 * Sec. 3. AS 09.50 is amended by adding new sections to read:

13 ARTICLE 7. FORFEITURE.

14 Sec. 09.50.400. PROCEDURES APPLICABLE IN FORFEITURE PROCEEDINGS.
15 The state is authorized to initiate a proceeding to forfeit property
16 if the property is made subject to forfeiture by state law. Unless
17 otherwise specifically provided in a state law authorizing forfeiture,
18 the procedures applicable to the forfeiture of property are specified
19 in AS 09.50.400 - 09.50.480.

20 Sec. 09.50.410. SEIZURE AND CUSTODY OF PROPERTY. (a) Property
21 may be seized by a peace officer under an order issued by a court upon
22 a showing of probable cause that the property is subject to forfei-
23 ture. The property may be seized without a court order if

24 (1) constitutionally permissible or otherwise authorized by
25 law;

26 (2) the property has been the subject of a judgment in
27 favor of the state in a forfeiture proceeding; or

28 (3) there is probable cause to believe that the property is
29 subject to forfeiture and is easily movable; property seized under

1 this paragraph may not be held for more than 48 hours without a court
2 order, which may be obtained in an ex parte proceeding, based on
3 probable cause that the property is subject to forfeiture.

4 (b) Property seized under (a) of this section must be held in
5 the custody of the commissioner of public safety or a municipal law
6 enforcement agency authorized by the commissioner to retain custody,
7 subject only to the orders and decrees of the court. If property is
8 seized under this section, the commissioner of public safety or an
9 authorized municipal law enforcement agency may

10 (1) place the property under seal;

11 (2) remove the property to a place designated by the court;

12 or

13 (3) take custody of the property and remove it to an appro-
14 priate location for disposition in accordance with law.

15 (c) Within 10 days after a seizure under this section, the
16 commissioner of public safety or authorized municipal law enforcement
17 agency shall make an inventory of property seized, including con-
18 trolled substances, and shall estimate the value of the items seized
19 other than controlled substances. In this section, "controlled sub-
20 stance" includes "imitation controlled substance" as defined in
21 AS 11.73.099.

22 Sec. 09.50.420. NOTICE OF SEIZURE AND FORFEITURE ACTION; AN-
23 SWERS. (a) Within 30 days after a seizure under AS 09.50.410, the
24 commissioner of public safety shall, in a manner authorized for ser-
25 vice of process under rules of civil procedure, give notice of the
26 seizure to any person known to have an interest in the property if it
27 has an estimated value of \$500 or more, or whose interest in the
28 property is ascertainable from official registration numbers, li-
29 censes, or other state, federal, or municipal numbers on the property.

1 The notice required by this subsection need not be given if the state
2 has filed a motion to forfeit or a complaint under AS 09.50.430(a)
3 within 30 days after seizure of the property.

4 (b) Within 30 days after the filing of a civil in rem action or
5 a motion to forfeit in a civil or criminal action, the commissioner of
6 public safety shall,

7 (1) in a manner authorized for service of process under
8 rules of civil procedure, provide a copy of the complaint or motion to
9 any person known to have an interest in the property, other than the
10 defendant, when a motion for forfeiture has been filed in a criminal
11 proceeding; and

12 (2) begin to publish notice of the action to forfeit prop-
13 erty with an estimated value of \$500 or more in a newspaper of general
14 circulation in the judicial district where the property was seized, or
15 if the property has not been seized, the judicial district where the
16 forfeiture action was filed; if no newspaper is published in that
17 judicial district, the notice must be published in a newspaper pub-
18 lished in the state and distributed in that judicial district; the
19 notice must be published once each week during four consecutive calen-
20 dar weeks.

21 (c) Upon service of process or publication under (b) of this
22 section, a person claiming an interest in the property, or a defendant
23 in a criminal proceeding who has been served with a motion to forfeit,
24 shall file an answer within the time permitted for answering civil
25 complaints under applicable rules of civil procedure. The answer must
26 set out the reasons why the property is not subject to forfeiture or
27 why the claimant is entitled to remission under AS 09.50.470. The
28 answer must include the nature of the claimant's interest in the
29 property, the date it was acquired, the consideration paid, and the

CORRECTION

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1 The notice required by this subsection need not be given if the state
2 has filed a motion to forfeit or a complaint under AS 09.50.430(a)
3 within 30 days after seizure of the property.

4 (b) Within 30 days after the filing of a civil in rem action or
5 a motion to forfeit in a civil or criminal action, the commissioner of
6 public safety shall,

7 (1) in a manner authorized for service of process under
8 rules of civil procedure, provide a copy of the complaint or motion to
9 any person known to have an interest in the property, other than the
10 defendant, when a motion for forfeiture has been filed in a criminal
11 proceeding; and

12 (2) begin to publish notice of the action to forfeit prop-
13 erty with an estimated value of \$500 or more in a newspaper of general
14 circulation in the judicial district where the property was seized, or
15 if the property has not been seized, the judicial district where the
16 forfeiture action was filed; if no newspaper is published in that
17 judicial district, the notice must be published in a newspaper pub-
18 lished in the state and distributed in that judicial district; the
19 notice must be published once each week during four consecutive calen-
20 dar weeks.

21 (c) Upon service of process or publication under (b) of this
22 section, a person claiming an interest in the property, or a defendant
23 in a criminal proceeding who has been served with a motion to forfeit,
24 shall file an answer within the time permitted for answering civil
25 complaints under applicable rules of civil procedure. The answer must
26 set out the reasons why the property is not subject to forfeiture or
27 why the claimant is entitled to remission under AS 09.50.470. The
28 answer must include the nature of the claimant's interest in the
29 property, the date it was acquired, the consideration paid, and the

1 circumstances under which it was acquired. If an answer is not filed
2 within the required time period, the property must be forfeited to the
3 state without further proceedings or showings.

4 (d) The notice requirements of this section do not apply to
5 controlled substances under AS 11.71 or imitation controlled sub-
6 stances under AS 11.73.

7 Sec. 09.50.430. PROCEEDINGS RESULTING IN FORFEITURE; BURDEN OF
8 PROOF. (a) A forfeiture proceeding is initiated by the state by the
9 filing of a motion to forfeit in a criminal case or in a civil pro-
10 ceeding relating to the conduct making the property subject to forfei-
11 ture, or by the filing of a complaint in a separate in rem proceeding.

12 (b) Questions of fact or law in a forfeiture proceeding under
13 this section must be determined by the court sitting without a jury.
14 In a forfeiture proceeding the state must prove by a preponderance of
15 the evidence that the property is subject to forfeiture under the law
16 authorizing forfeiture. A forfeiture proceeding, including discovery,
17 may be held in abeyance until the conclusion of a pending criminal
18 action relating to the conduct making the property subject to forfei-
19 ture.

20 Sec. 09.50.440. DEFENSES EXEMPTED. It is not a defense to a
21 proceeding to forfeit property under AS 09.50.430 that a criminal
22 proceeding has resulted in a conviction of a lesser included offense
23 or an acquittal.

24 Sec. 09.50.450. PETITION FOR RELEASE OF SEIZED PROPERTY. (a) A
25 claimant may at any time petition the court for release of property
26 seized under AS 09.50.410 if the claimant

27 (1) has filed a timely answer under AS 09.50.420(c); or
28 (2) before the initiation of a forfeiture action, files a
29 notice of claim setting out the nature of the claimant's interest in

1 the property, the date it was acquired, the consideration paid, and
2 the circumstances under which it was acquired.

3 (b) The court may release property that is not likely to be used
4 as evidence by the state or a defendant in a criminal proceeding, or
5 by any party in a civil proceeding, if

6 (1) the claimant gives adequate assurance that the property
7 will remain subject to the court's jurisdiction;

8 (2) the court finds that the release is in the best inter-
9 ests of the state; and

10 (3) the claimant provides a bond or other valid and equiva-
11 lent security equal to twice the estimated value of the property.

12 Sec. 09.50.460. PETITION FOR DISPOSITION OF SEIZED PROPERTY.

13 (a) The state may petition the court for disposition of seized prop-
14 erty before the termination of court proceedings. A claimant may also
15 seek a petition for disposition before the termination of court pro-
16 ceedings if the claimant

17 (1) has filed a timely answer under AS 09.50.420(c); or

18 (2) before the initiation of a forfeiture action, files a
19 notice of claim setting out the nature of the claimant's interest in
20 the property, the date it was acquired, the consideration paid, and
21 the circumstances under which it was acquired.

22 (b) The court may grant a petition for disposition if the prop-
23 erty is not likely to be used as evidence by the state or a defendant
24 in a criminal proceeding, or by a party in a civil proceeding, and the
25 court finds that the disposition is in the best interests of the state
26 and the preservation and maintenance of the value of the property
27 seized. Proceeds from the disposition plus interest to the date of
28 termination of the court proceedings become the subject of the forfei-
29 ture action.

1 Sec. 09.50.470. FORFEITURE AND REMISSION. (a) Once the state
2 has established that property is subject to forfeiture under the law
3 authorizing forfeiture, the property must be forfeited to the state,
4 except that a claimant who has filed an answer under AS 09.50.420(c)
5 may prove by a preponderance of the evidence that the claimant is
6 entitled to remission because the claimant

7 (1) has a valid interest in the property, acquired in good
8 faith;

9 (2) did not participate in the conduct that resulted in the
10 property being subject to forfeiture; and

11 (3) did not know or have reasonable cause to believe that
12 the property had been or would be used or derived in a manner making
13 the property subject to forfeiture.

14 (b) Upon a showing that a claimant is entitled to remission
15 under (a) of this section, the court shall order that

16 (1) if the claimant is entitled to the property, it must be
17 delivered to the claimant immediately;

18 (2) if the claimant is entitled to some value less than the
19 total value of the property, the claimant may choose to receive either
20 the value of the interest or, upon payment of the difference in value,
21 the entire property.

22 (c) The court may, as part of a sentence, or as a condition of a
23 probation or suspended imposition of sentence, order the payment of
24 reasonable maintenance, storage, disposal, publication, attorney fees,
25 or other costs associated with the forfeiture or remission of proper-
26 ty.

27 Sec. 09.50.480. STATE DISPOSAL OF FORFEITED PROPERTY. Property
28 forfeited under this chapter, other than controlled substances, must
29 be disposed of by the commissioner of administration in accordance

CORRECTION

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1 Sec. 09.50.470. FORFEITURE AND REMISSION. (a) Once the state
2 has established that property is subject to forfeiture under the law
3 authorizing forfeiture, the property must be forfeited to the state,
4 except that a claimant who has filed an answer under AS 09.50.420(c)
5 may prove by a preponderance of the evidence that the claimant is
6 entitled to remission because the claimant

7 (1) has a valid interest in the property, acquired in good
8 faith;

9 (2) did not participate in the conduct that resulted in the
10 property being subject to forfeiture; and

11 (3) did not know or have reasonable cause to believe that
12 the property had been or would be used or derived in a manner making
13 the property subject to forfeiture.

14 (b) Upon a showing that a claimant is entitled to remission
15 under (a) of this section, the court shall order that

16 (1) if the claimant is entitled to the property, it must be
17 delivered to the claimant immediately;

18 (2) if the claimant is entitled to some value less than the
19 total value of the property, the claimant may choose to receive either
20 the value of the interest or, upon payment of the difference in value,
21 the entire property.

22 (c) The court may, as part of a sentence, or as a condition of a
23 probation or suspended imposition of sentence, order the payment of
24 reasonable maintenance, storage, disposal, publication, attorney fees,
25 or other costs associated with the forfeiture or remission of prop-
26 erty.

27 Sec. 09.50.480. STATE DISPOSAL OF FORFEITED PROPERTY. Property
28 forfeited under this chapter, other than controlled substances, must
29 be disposed of by the commissioner of administration in accordance

1 with applicable law. Controlled substances and imitation controlled
2 substances must be disposed of under AS 17.30.126. The commissioner
3 of administration may, consistent with other applicable law,

4 (1) destroy property harmful to the public;

5 (2) sell the property and use the proceeds for payment of
6 all proper expenses of the proceedings for forfeiture and sale, in-
7 cluding expenses of seizure, custody, and court costs;

8 (3) take custody of the property and authorize its use in
9 the enforcement of the law or transfer it to another agency of the
10 state or a political subdivision of the state for a use in furtherance
11 of the administration of justice;

12 (4) take custody of the property and remove it for disposi-
13 tion in accordance with law;

14 (5) forward it to the United States Department of Justice
15 for disposition; or

16 (6) transfer ownership of an aircraft to the Alaska Wing,
17 Civil Air Patrol.

18 * Sec. 4. AS 11.41.520 is amended by adding a new subsection to read:

19 (e) As used in this section, "obtains the property of another"
20 includes the collection of a debt that was undertaken with the express
21 or implied understanding between the debtor and the creditor that
22 delay in making repayment, or failure to make repayment, could result
23 in commission of any of the acts described in (a)(1) - (7) of this
24 section.

25 * Sec. 5. AS 11.66.270 is amended to read:

26 Sec. 11.66.270. FORFEITURE. If used in violation of AS 11.66.-
27 200 - 11.66.290, the following property is subject to forfeiture under
28 AS 09.50 [SHALL BE FORFEITED]:

29 (1) a gambling device or gambling record;

- 1 (2) money, not found on the person, used as a bet or stake;
2 (3) money used as a bet or stake which is found on the
3 person of one who conducts, finances, manages, supervises, directs, or
4 owns all or part of an unlawful gambling enterprise.

5 * Sec. 6. AS 11.73.060(a) is amended to read:

6 (a) Property used during or in aid of a violation of this chap-
7 ter may be forfeited to the state to the extent permitted under and in
8 accordance with the provisions of AS 09.50 and AS 17.30.110 - 17.30.-
9 126.

10 * Sec. 7. AS 12.55.035(b) is amended to read:

11 (b) Upon conviction of an offense, a defendant who is not an
12 organization may be sentenced to pay, unless otherwise specified in
13 the provision of law defining the offense, a fine of no more than

14 (1) \$75,000 for an unclassified felony [MURDER IN THE FIRST
15 OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR
16 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE];

17 (2) \$50,000 for a class A, B, or C felony;

18 (3) \$5,000 for a class A misdemeanor;

19 (4) \$1,000 for a class B misdemeanor;

20 (5) \$300 for a violation.

21 * Sec. 8. AS 12.55.125(i) is amended to read:

22 (i) A defendant convicted of illegal control of an enterprise in
23 the first degree, sexual assault in the first degree or sexual abuse
24 of a minor in the first degree may be sentenced to a definite term of
25 imprisonment of not more than 30 years, and shall be sentenced to the
26 following presumptive terms, subject to adjustment as provided in
27 AS 12.55.155 - 12.55.175:

28 (1) if the offense is a first felony conviction and does
29 not involve circumstances described in (2) of this subsection, eight

1 years;

2 (2) if the offense is a first felony conviction, and the
3 defendant possessed a firearm, used a dangerous instrument, or caused
4 serious physical injury during the commission of the offense, 10
5 years;

6 (3) if the offense is a second felony conviction, 15 years;

7 (4) if the offense is a third felony conviction, 25 years.

8 * Sec. 9. AS 17.30.110 is repealed and reenacted to read:

9 Sec. 17.30.110. ITEMS SUBJECT TO FORFEITURE. (a) The following
10 property is subject to forfeiture under AS 09.50 and AS 17.30.126:

11 (1) a controlled substance that has been manufactured,
12 distributed, dispensed, acquired, or possessed in violation of this
13 chapter or AS 11.71;

14 (2) raw materials, products, and equipment that are used or
15 intended for use in manufacturing, distributing, compounding, process-
16 ing, delivering, importing, or exporting a controlled substance in
17 violation of this chapter or AS 11.71;

18 (3) property that is used or intended for use as a con-
19 tainer for property described in (1) or (2) of this section;

20 (4) a conveyance, including but not limited to aircraft,
21 vehicles, or vessels, that has been used or is intended for use in
22 transporting or in any manner in facilitating the transportation,
23 sale, receipt, possession, or concealment of property described in (1)
24 or (2) of this section in violation of a felony offense under this
25 chapter or AS 11.71;

26 (5) books, records, and research products and materials,
27 including formulas, microfilm, tapes, and data, that are used in
28 violation of this chapter or AS 11.71;

29 (6) money, securities, negotiable instruments, or other

1 property

2 (A) furnished by a person in exchange for a controlled
3 substance in violation of this chapter or AS 11.71;

4 (B) used to facilitate a violation of this chapter or
5 AS 11.71; or

6 (C) that constitute proceeds derived from a violation
7 of this chapter or AS 11.71; and

8 (7) a firearm carried during, or used in furtherance of a
9 violation of this chapter or AS 11.71.

10 (b) In this section, "violation of this chapter or AS 11.71"
11 includes an attempt or solicitation under AS 11.31 to violate this
12 chapter or AS 11.71.

13 * Sec. 10. AS 17.30.126 is amended by adding a new subsection to read:

14 (c) As used in this section, "controlled substance" includes
15 "imitation controlled substance" as defined in AS 11.73.099.

16 * Sec. 11. AS 17.30.112 - 17.30.124 are repealed.

17 * Sec. 12. This Act takes effect January 1, 1987.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 413
 Title : Anti-Racketeering Crime Bill

 Sponsor : Senator Rodey
 Requestor : OMB/Governor's Office
 Date of Request : 4/14/86

FISCAL DETAIL

Agency Affected : Department of Law
 BRU : Prosecution

 Components : Third Judicial District

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		43.7	52.5	54.1	55.7	57.4
TRAVEL		5.0	5.2	5.3	5.5	5.6
CONTRACTUAL		35.6	36.7	37.8	38.9	40.1
SUPPLIES		3.5	2.1	2.1	2.2	2.3
EQUIPMENT		1.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		89.3	96.5	99.3	102.3	105.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		89.3	96.5	99.3	102.3	105.4
FEDERAL FUNDS						
OTHER						
TOTAL		89.3	96.5	99.3	102.3	105.4

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by : Richard I. Pegues, Director
 Division : Administrative Services Division
 Approved by Commissioner : Harold M. Brown, Attorney General
 Agency : Department of Law

Phone : 465-3672
 Date : 4/14/86
 Date : 4/14/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 413

This bill would provide both criminal and civil sanctions to combat organized racketeering activities through the illegal control of enterprises in Alaska. The bill provides both stiff penalties and severe financial disincentives to the infiltration into legitimate business through criminal activity. The bill is also designed to address the operation of an enterprise through a pattern of illegal activity. This level of criminal activity usually involves the use of highly sophisticated economic structures. Enactment of the bill will provide the state with the legal tools necessary to respond to the increasingly sophisticated criminal activity being experienced in Alaska.

The Department of Law estimates that two to three investigations/prosecutions of this nature will be undertaken annually, requiring painstaking examination and evaluation of large numbers of financial documents and business transactions to track and identify the funds that originate from criminal activities and the individuals who control those funds. The bill can be implemented with existing prosecutor resources because of the power granted to the Attorney General to conduct investigations into suspected organized criminal activity. The department believes, however, that the addition of case preparation resources will enable it to do a far more effective job under the bill. The department therefore recommends the addition of an Associate Attorney II to conduct primary research of financial records of suspected criminal activities. These two positions would be assigned to the Office of Special Prosecutions and Appeals to assist existing attorneys "make" these types of cases. The department also recommends setting aside sufficient funds to contract for the services of document analysis experts and accountants for use as expert witnesses during the preparation for and conduct of trials.

Fiscal Analysis RICO Bill
Cost Schedule

FY 87

	<u>Assoc. Atty. II</u>	<u>Expert Witness Contractors</u>	<u>Total</u>
100	43.7		43.7
200	5.0		5.0
300	5.6	30.0	35.6
400	3.5		3.5
500 (one-time expense)	1.5		1.5
TOTAL	<u>59.3</u>	<u>30.0</u>	<u>89.3</u>

Contractor's time, including the costs for travel and the preparation of court room visual displays, is estimated at \$75 per hour for 400 hours of services.

Costs beyond FY 87 include a 3% annual inflation factor.

Position Title Associate Attorney II			No. of Positions 1	Range/Step 19/A	Barg. Unit PX	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 10	RP Number	Location Anchorage		Election District 8	Leg.		
Type of Expenditure			Justification					
1		2	This position is needed to implement the RICO bill. The position will serve as case legal researcher and collect, organize and analyze the substantial amounts of evidence required to prove the infiltration of criminal activity into legitimate enterprises. Because of the complex nature of the evidence used in these types of cases, allocation to the senior paraprofessional classification of Associate Attorney II is recommended.					
Amount		3						
Salary	33,530 x 10	33,530						
Benefits		10,195						
Premium Pay								
Other								
Total Personal Services			43,725					
Travel			5,000					
Contractual			5,600					
Commodities			3,500					
Equipment			1,500					
Other								
Total Cost			59,325					
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		59,325					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Department of Law
 BRU Prosecution
 Component Third Judicial District

Page 1 of 1
 Revised Date _____

FY 87

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 413
 Title : An Act relating to illegally controlled enterprises..forfeiture of property..."
 Sponsor : Senator Rodey
 Requestor : Senate Judiciary
 Date of Request : 3/4/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Alaska State Troopers

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *K Niles* Kathy Niles, Admin Assistant Phone : 465-4336
 Division : Commissioner's Office Date : 3/4/86
 Approved by Commissioner : *[Signature]* Date : 3/4/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

SB 413

3/10/86
3(Jed)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 2/28/86

REQUEST
Bill/Resolution No.: SB 413
Title: "An act relating to illegally controlled enterprises..."
Sponsor: Rodey, Falks, Kerttula
Requestor: Judiciary and Finance
Date of Request: _____

FISCAL DETAIL
Agency Affected: Department of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		99.8	103.8	108.0	112.3	116.8
TRAVEL		5.0	5.2	5.4	5.6	5.8
CONTRACTUAL		10.0	10.4	5.4	5.6	5.8
SUPPLIES		2.5	2.6	2.7	2.8	2.9
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	123.3	122.0	121.5	126.3	131.3
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	123.3	122.0	121.5	126.3	131.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME	-0-	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

(See Attached)

Prepared by: Dana Fabe
Division: Public Defender Agency

Phone: 279-7541
Date: 2/28/86

Approved by Commissioner: Eleanor Andrews
Agency: Department of Administration

Date: 3/6/86

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

38413

Fiscal Note Analysis
Prepared by Division of Public Defender Agency
Department of Administration
February 28, 1986

This bill is patterned after the federal racketeering statute. Although at first glance a statute relating to racketeering and organized crime would not appear to impact an agency providing public counsel to the indigent, a more detailed analysis of this bill reveals that both the Public Defender Agency and the Office of Public Advocacy will undoubtedly be appointed to represent defendants charged under this statute.

The definition of racketeering in this bill requires proof of a pattern of illegal activity involving two or more instances of that activity. Illegal activity is defined as almost any felony found under AS 11. The commentary to this legislation indicates specifically that the bill is not limited to "organized crime".

This bill is modeled on federal law, and the experience in federal cases is that the legislation has been applied to a wide variety of defendants, including members of the Hell's Angels motorcycle club, a factory worker at an automobile plant, and employees of a court system. Various states with similar bills have urged inclusion of a wide range of defendants within the statute, from members of prison gangs to members of narcotics trafficking operations. There appears to be a wide range of offenses which could be included within the purview of this statute, and while some persons involved in a criminal enterprise may be able to afford their own attorney, this by no means provides assurance that all members of an illegal enterprise under this statute could do so.

Of particular interest in analyzing whether persons charged under this statute may qualify for public counsel are the provisions in the statute which provide for forfeiture of illegal proceeds arising from the activity. The language of the bill is intended to permit seizure of assets and proceeds of the illegal enterprise, and the illegal profits will not become "legal" merely because they have been subsequently committed to a legal investment. Thus, even if a person charged with this offense has assets resulting from the illegal enterprise in which he is involved, those assets can be seized prior to his hiring a lawyer, making it necessary for the court to appoint the Public Defender Agency or Office of Public Advocacy to represent him.

Cases filed under racketeering bills routinely involve substantial attorney time, particularly for preparation of pre-trial motions. Due to the fact that the Department of Law's investigation activity will apparently focus on the Anchorage area, the Public Defender Agency is requesting one experienced attorney and one clerk typist to handle representation of clients charged under this bill.

Fiscal Analysis

<u>Personal Services:</u>	Attorney IV	72.4	
	Clerk-Typist III	27.4	
			99.8
<u>Travel:</u>	Expert witnesses and investigation		5.0
<u>Contractual:</u>	Expert witnesses, space, etc.		10.0
<u>Supplies:</u>	Office, law library, etc.		2.5
<u>Equipment:</u>	(one time) Furniture, office machines, etc.		<u>6.0</u>
	Total		123.3

290

Position Title Clerk/Typist III			No. of Positions 1	Range/Step 8A	Barg. Unit CG	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Anchorage		Election District 8	Leg.		
Justification								
Type of Expenditure			Amount					
1			2			3		
Salary 1631 x 12			19,572					
Benefits			7,804					
Premium Pay								
Other								
Total Personal Services			27,376					
Travel			-0-					
Contractual			-0-					
Commodities			1,000					
Equipment			4,500					
Other								
Total Cost			32,876					
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004			32,876		
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only Key Number _____								

This bill, which relates to illegally controlled enterprises, is broad enough in scope that indigents may be included, thereby requiring the services of the Public Defender Agency. Since the felony caseload of the agency would be increased, a Clerk Typist III is requested for Anchorage to provide necessary support services.

**Request For
New Position**

Agency Department of Administration
 BKU Public Defender Agency
 Component Third Judicial District

Page 5 of 5
 Revised Date

FY 87

SECTIONAL ANALYSIS FOR SB 413
April 14, 1986

Introduction: This bill will allow the state to address the problem of the acquisition and operation of businesses through a pattern of illegal activity. The bill will authorize civil and criminal penalties for three forms of conduct: (1) the use of a pattern criminal activity to acquire an interest in a business; (2) the use of a pattern of criminal activity to conduct some or all of the affairs of a legitimate or completely illegitimate business; and (3) the use of the ill-gotten gains from a pattern of criminal activity to acquire an interest in a business or conduct the affairs of a business.

Many provisions in this bill have been based on the federal Racketeer Influenced and Corrupt Organizations title of the Organized Crime Control Act of 1970. That legislation has served as a model for 19 states that have enacted legislation authorizing a state response to some of the same concerns addressed by Congress in 1970. Although in most circumstances the coverage of the federal and state laws will be the same, the federal law is restricted to enterprises. This bill does, however, require that at least one of the acts forming the pattern of illegal activity be in violation of Alaska law.

In addition to its criminal provisions, this bill establishes significant civil remedies for the victim of illegal activity. It creates a private right of action for treble damages that is available to a person who is injured as a result of the prohibited acts described in the legislation. The bill provides another deterrent against those who desire to victimize Alaskans and it authorizes compensation to the victim on the criminal activity and provides an incentive for that person to seek recovery by authorizing the award of treble damages. Finally, the forfeiture procedures included in the bill insure that a defendant will not be able to profit from illegal activity.

The bill also provides for preliminary measures, such as injunctions and other court orders, to stop illegal activity before it actually succeeds in taking over a legitimate business. Additionally, the attorney general is authorized to conduct investigations into racketeering activity and is given the authority to obtain evidence necessary to successfully complete that investigation.

In Summary: In 1970, Congress passed the Organized Crime Control Act. The federal law, and this bill after which it is modelled, is based on the premise that a pattern of sophisticated and at times conspiratorial crime engaged in by a single person, or an organized group of persons, poses a much greater danger to society than individual unrelated criminal acts.

Concerned that repeated and sometimes highly sophisticated crime was being used to finance the infiltration and takeover of legitimate businesses, and that crime had effectively become a business, Congress enacted new statutes to help respond to these serious problems. The federal legislation, however, only applies to conduct which affects interstate commerce. This proposed legislation covers situations where at least one crime is committed in Alaska and is also applicable to solely in-state enterprises.

Section 1.

Declaration of Purpose: This section makes it clear that the overall purpose of the bill is to provide specific statutory provisions to combat the acquisition, establishment or operation of businesses through a pattern of criminal activity.

Section 2.

Article 1. Prohibited Acts:

Section 11.59.010. Three types of prohibited conduct form the basis for both the criminal penalties and civil remedies that are authorized in this legislation. They are: (1) taking over an enterprise through racketeering; (2) running an enterprise through racketeering; and (3) using income from racketeering to take over or run an enterprise.

Section 11.59.030. addresses several issues pertaining to the type of evidence that can be used to establish the element of racketeering.

Article 2. Illegal Control of an Enterprise in the First and Second Degree.

Section 11.59.040. and 11.59.050. define the only two crimes created by this legislation. The first degree crime is an unclassified felony punishable by presumptive sentencing and a maximum sentence of 30 years. Additionally, the defendant will be subject to a maximum \$75,000 fine if the defendant is a natural person, or a higher fine if an organization is charged. The second degree crime is a class A felony punishable by up to 20 years imprisonment, as well as substantial fines.