

ALASKA LEGISLATURE

930

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

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HFIN

FILE

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order transferring from the Department of Commerce and Economic Development to the Department of Revenue the functions relating to the regulation of games of chance and skill under AS 05.15.

These activities require close supervision, including auditing of financial records. I believe that the transfer accomplished by this Executive Order will increase the efficiency and effectiveness of that supervision.

Sincerely,

Walter J. Hickel
Governor

HOUSE COMMITTEE REPORT

HFC

(11)

Date Referred: January 27, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/9/93

The FINANCE Committee considered:

EO 82

EXECUTIVE ORDER NO. 82

Re: CHARITABLE GAMING PROGRAM

Transferring administration of the charitable gaming program from the Department of Commerce and Economic Development to the Department of Revenue.

RECOMMENDATIONS:

be replaced with _____ the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Revenue 1/11/93
DCED 1/11/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>EP Maclean</i> Maclean	✓				
<i>Ron Larson</i> Larson	X				
<i>Mark Hanley</i> Hanley	X				
<i>Alan Parnell</i> Parnell	X				
<i>Ben Grussendorf</i> Grussendorf	X				
<i>Larry Hoffman</i> HOFFMAN	✓				
<i>Tony Brown</i> BROWN	✓				
<i>Therese PETER</i> PETER	X				
<i>Vince Martin</i> martin	✓				

Ron Larson *EP Maclean*
CHAIRMAN'S SIGNATURE maclean

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1

Bill Version: EO 82

B

(S) Publish Date: 1-11-93

Session Date: _____ Dept. Affected: Revenue
 Title: Transfer Gaming from DCED to DOR BRU: Administration & Support
 Sponsor: Governor Component: Commissioner's Office
 Requestor: _____ COMPONENT SERIAL NO. 0123

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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 FUND SOURCE:						
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YDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Rod R. Mourant Phone: 465-2700
 Position: Commissioner's Office Date: 11/30/92
 Approved by Commissioner: Darrel J. Rexwinkel Date: 11/30/92
 Agency: Revenue

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FISCAL NOTE

No. 2

Bill Version: EC 82

(S) Publish Date: 1-11-93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Commerce & Economic Dev.
Title: Transferring the Games of Chance and BRU: Occupational Licensing
Contests of Skill Section to Dept. of Revenue Component: _____

Sponsor: _____
Requestor: Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF: Program Receipts						
1006 GF: MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

The FY 94 budget will be transferred by budget amendment.

Prepared by: Guy Bell, Director
Division: Administrative Services

Phone: 465-2505
Date: November 10, 1992

Approved by Commissioner: Paul Fuhs
Agency: Commerce & Economic Development

Date: _____
COMMITTEE COPY

SENATE

Introduced: 1/11/93
 Referred: L&C, FIN

HOUSE

Introduced: 1/11/93
 Referred: STA, L&C, FIN

EXECUTIVE ORDER NO. 82

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of the
 4 state, and would increase the efficiency of the administration of the charitable gaming
 5 program (AS 05.15) to transfer that program from the Department of Commerce and
 6 Economic Development to the Department of Revenue.

7 * **Sec. 2.** AS 05.15.010 is amended to read:

8 Sec. 05.15.010. DEPARTMENT OF REVENUE [COMMERCE AND
 9 ECONOMIC DEVELOPMENT] TO ADMINISTER CHAPTER. The Department of
 10 Revenue [COMMERCE AND ECONOMIC DEVELOPMENT] shall administer this
 11 chapter.

12 * **Sec. 3.** AS 05.15.030 is amended to read:

13 Sec. 05.15.030. REQUIRED NOTICES BY APPLICANT, PERMITTEE, OR
 14 LICENSEE. (a) At the time of filing an application for a permit or license under this
 15 chapter, the applicant shall notify the city or borough nearest to the location of the
 16 proposed activity of the application. A local government unit may protest the conduct
 17 of the activity in its jurisdiction by resolution stating the reasons for the protest filed
 18 with the department; protests are limited to the lack of qualifications prescribed by
 19 this chapter. This resolution is only a recommendation by the local government that
 20 may be considered by the department [COMMISSIONER] in determining whether
 21 to issue or refuse to issue a permit or license.

22 (b) In addition to the requirements of (a) of this section, an applicant for a
 23 permit to conduct an activity under AS 05.15.100(b) shall notify the law enforcement

1 agency having jurisdiction over the location of the proposed activity. The
2 department [COMMISSIONER] may not issue a permit for the proposed activity
3 unless the application is accompanied by the written approval of the law enforcement
4 agency having jurisdiction.

5 (c) If a permittee or licensee changes the location of an activity in the
6 jurisdiction for which a permit has been issued, the permittee shall notify the
7 department and the local government within 10 days after moving to the new location.

8 * Sec. 4. AS 05.15.060 is amended to read:

9 Sec. 05.15.060. REGULATIONS. The department shall adopt regulations
10 under the Administrative Procedure Act (AS 44.62) necessary to carry out this chapter
11 covering, but not limited to,

12 (1) the issuance, renewal, and revocation of permits and licenses;

13 (2) a method of ascertaining net proceeds, the determination of items
14 of expense that may be incurred or paid, and the limitation of the amount of the items
15 of expense to prevent the proceeds from the activity permitted from being diverted to
16 noncharitable, noneducational, nonreligious, or profit-making organizations,
17 individuals, or groups;

18 (3) the immediate revocation of permits and licenses authorized under
19 this chapter if this chapter or regulations adopted under it are violated;

20 (4) the requiring of detailed, sworn, financial reports of operations
21 from permittees and licensees, including detailed statements of receipts and payments;

22 (5) the investigation of permittees, licensees, and their employees,
23 including the fingerprinting of those permittees, licensees, and employees whom the
24 department [COMMISSIONER] considers it advisable to fingerprint;

25 (6) exclusion from participation as a permittee, licensee, or employee
26 of a permittee or licensee, of a person convicted of, in prison for, or on parole for a
27 felony within the preceding five years, or convicted of a crime involving theft or
28 dishonesty or of a violation of a municipal, state, or federal gambling law;

29 (7) the method and manner of conducting authorized activities and
30 awarding of prizes or awards, and the equipment that may be used;

31 (8) the number of activities that may be held, operated, or conducted

1 under a permit during a specified period; however, the department may not allow
2 more than 14 bingo sessions a month and 35 bingo games a session to be conducted
3 under a permit;

4 (9) a method of accounting for receipts and disbursements by
5 operators, including the keeping of records and requirements for the deposit of all
6 receipts in a bank;

7 (10) the disposition of funds in possession of a permittee or a person,
8 municipality, or qualified organization that possesses an operator's license at the time
9 a permit or a license is surrendered, revoked, or invalidated;

10 (11) restrictions on the participation by employees of the Department
11 of Fish and Game in salmon classics and in king salmon classics, and by employees
12 of Douglas Island Pink and Chum in king salmon classics;

13 (12) other matters the department [COMMISSIONER] considers
14 necessary to carry out this chapter or protect the best interest of the public.

15 * Sec. 5. AS 05.15.070 is amended to read:

16 Sec. 05.15.070. EXAMINATION OF BOOKS AND RECORDS. The
17 department [COMMISSIONER] may examine or have examined the books and
18 records of a permittee, an operator, or a person licensed to manufacture or to
19 distribute pull-tab games in the state. The department [COMMISSIONER] may
20 issue subpoenas for the attendance of witnesses and the production of books, records,
21 and other documents.

22 * Sec. 6. AS 05.15.090 is amended to read:

23 Sec. 05.15.090. REPORTS TO THE LEGISLATURE. Before April 15 of
24 each year, the department [COMMISSIONER] shall submit a detailed report
25 containing a summary of all reports required of permittees and operators. The
26 attorney general and the commissioner of public safety shall, within 10 days after the
27 convening of the legislature each year, submit a jointly prepared, detailed report
28 outlining the effect, if any, of the operation of this chapter on the legal and law
29 enforcement activities of the state.

30 * Sec. 7. AS 05.15.100 is amended to read:

31 Sec. 05.15.100. ISSUANCE OF PERMITS AND LICENSES. (a) The

1 department [COMMISSIONER] may issue a permit to a municipality or qualified
2 organization. The permit gives the municipality or qualified organization the privilege
3 of conducting bingo, raffles and lotteries, pull-tab games, ice classics, rain classics,
4 goose classics, mercury classics, salmon classics, king salmon classics, dog mushers'
5 contests, fish derbies, and contests of skill.

6 (b) The department [COMMISSIONER] also may issue a permit giving a
7 municipality or qualified organization the privilege of conducting an activity involving
8 the use of playing cards, dice, and numbers wheels. Each year, a municipality or
9 qualified organization may apply for a permit under this subsection for either a single
10 event lasting no more than three consecutive days, or for no more than three events
11 lasting no more than one day each.

12 (c) The department [COMMISSIONER] may issue an operator's license to
13 a natural person to conduct an activity permitted under this chapter on behalf of a
14 municipality or a qualified organization. The department [COMMISSIONER] may
15 also issue an operator's license to a municipality or a qualified organization to
16 conduct an activity on behalf of another municipality or qualified organization.

17 * Sec. 8. AS 05.15.130 is amended to read:

18 Sec. 05.15.130. DEPARTMENT [COMMISSIONER] MAY IMPOSE
19 ADDITIONAL REQUIREMENTS FOR ELIGIBILITY. The department
20 [COMMISSIONER] may supplement the definitions of qualified organizations and
21 activities by regulations adopted under this chapter adding to the definitions additional
22 requirements that the department [COMMISSIONER] considers necessary for the
23 best interests of the public or for the proper administration of this chapter.

24 * Sec. 9. AS 05.15.140 is amended to read:

25 Sec. 05.15.140. PROOF NECESSARY TO QUALIFY FOR PERMIT. (a)
26 The department [COMMISSIONER] may not issue or renew a permit except upon
27 satisfactory proof that the applicant is a municipality or qualified organization, the
28 activity may be permitted under this chapter, and the issuance of a permit is not
29 detrimental to the best interests of the public. Upon request of the department
30 [COMMISSIONER], the applicant shall prove conclusively each of these requirements
31 before a permit may be issued or renewed.

1 (b) In an application for a permit, a municipality or qualified organization
2 shall disclose the name and address of each person responsible for the operation of
3 the activity and whether any person named

4 (1) has been convicted of, in prison for, or on parole for a
5 felony within the preceding five years, or convicted of a crime involving theft
6 or dishonesty or of a violation of a municipal, state, or federal gambling law;
7 or

8 (2) has a prohibited financial interest, as defined in regulations
9 adopted by the department [COMMISSIONER], in the operation of the
10 activity.

11 (c) The department [COMMISSIONER] may not issue a permit for an
12 activity operated by a person who has been convicted of, in prison for, or on parole
13 for a felony within the preceding five years, or convicted of a crime involving theft
14 or dishonesty or of a violation of a municipal, state, or federal gambling law.

15 (d) Application forms for permits must contain a notice that a false statement
16 in the application is punishable by law.

17 * Sec. 10. AS 05.15.150(b) is amended to read:

18 (b) The net proceeds derived from the activity must be devoted within one
19 year to one or more of the uses stated in (a) of this section. A municipality or
20 qualified organization desiring to hold the net proceeds for a period longer than one
21 year must apply to the department [COMMISSIONER] for special permission and
22 upon good cause shown the department [COMMISSIONER] may grant the request.

23 * Sec. 11. AS 05.15.170 is amended to read:

24 Sec. 05.15.170. SUSPENSION OF PERMIT. The department
25 [COMMISSIONER] may suspend a permit pending investigation or hearing. The
26 suspension is effective upon the giving of notice to the permittee. The notice may be
27 given by the delivery or handing of written notice to the permittee or a person
28 conducting an activity under the permittee's permit or the mailing of notice to the
29 permittee at the address shown on the permit. A permit may be suspended under this
30 section for a period of 90 days or until the end of a hearing or other proceeding begun
31 during suspension. The authority of the department [COMMISSIONER] to suspend

1 a permit is not subject to the Administrative Procedure Act (AS 44.62).

2 * Sec. 12. AS 05.15.180(a) is amended to read:

3 (a) Except as provided in AS 05.15.100(b), this chapter does not authorize the
4 use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or
5 other objects or instruments used, designed, or intended primarily for gaming or
6 gambling or any other method or implement not expressly authorized by the
7 department [COMMISSIONER].

8 * Sec. 13. AS 05.15.180(c) is amended to read:

9 (c) The operation of activities licensed under AS 05.15.100(b) is limited as
10 follows:

11 (1) cash prizes may not be awarded;

12 (2) only money substitutes such as chips or scrips may be used by a
13 player in the activity;

14 (3) the money substitutes may be exchanged only for prizes other than
15 money and may not be otherwise exchanged or sold; and

16 (4) additional limitations may be established by the department
17 [COMMISSIONER] under adopted regulations.

18 * Sec. 14. AS 05.15.210(8) is amended to read:

19 (8) "department" means the Department of Revenue [COMMERCE
20 AND ECONOMIC DEVELOPMENT];

21 * Sec. 15. AS 11.66.280(2) is amended to read:

22 (2) "gambling" means that a person stakes or risks something of value
23 upon the outcome of a contest of chance or a future contingent event not under the
24 person's control or influence, upon an agreement or understanding that that person or
25 someone else will receive something of value in the event of a certain outcome;
26 "gambling" does not include

27 (A) bona fide business transactions valid under the law of
28 contracts for the purchase or sale at a future date of securities or commodities
29 and agreements to compensate for loss caused by the happening of chance,
30 including contracts of indemnity or guaranty and life, health, or accident
31 insurance; or

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(B) paying an amusement device that
(i) confers only an immediate right of replay not exchangeable for something of value other than the privilege of immediate replay; and
(ii) does not contain a method or device by which the privilege of immediate replay may be cancelled or revoked;
(C) an activity authorized by the Department of Revenue [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT] under AS 05.15;

* Sec. 16. AS 05.15.210(6) and AS 44.33.020(31) are repealed.

* Sec. 17. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order.

(b) Regulations relating to games of chance and contests of skill adopted by the Department of Revenue or the Department of Commerce and Economic Development before the effective date of this Order remain in effect until regulations relating to that function are adopted by the Department of Revenue under AS 05.15, as amended by this Order, and take effect. Until its regulations adopted on or after the effective date of this Order take effect, the Department of Revenue may administer and enforce those previously adopted Department of Revenue and Department of Commerce and Economic Development regulations.

(c) Records, equipment, appropriations, and other property of an agency of the state whose functions are transferred under this Order shall be transferred to implement the provisions of this Order.

* Sec. 18. This Order takes effect July 1, 1993.

DATED: _____

Walter J. Hickel
Governor

EO

83

HFIN

FILE

WALTER J. HICKEL
GOVERNOR



E083

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1183

Dear President Halford:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order merging the State Geographic Board (AS 44.19.054 - 44.19.062) and the Historic Sites Advisory Committee (AS 41.35.110 - 41.35.190) into the Alaska Historical Commission (AS 41.35.300 - 41.35.380). The commission will remain in the Department of Natural Resources, where the Historic Sites Advisory Committee is also located.

I believe that this change will have several benefits to the state. First, it will place in one entity, instead of three, the closely related functions of recognizing and presenting Alaska's history, evaluating and approving historical sites in the state, and naming geographic places, which often involves names of historical figures, places, and events. Second, it will increase public access because the public will know that any historical concerns can be addressed to the merged entity; the public will not have to figure out which of three entities is the appropriate one for a specific matter. Finally, the consolidation will save money because the single resulting entity will have far fewer members than do the three existing ones combined.

Sec. 8 of the Order repeals and reenacts AS 41.35.310(5) which is identical in substance to existing AS 41.35.320.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

FISCAL NOTE

No. 2
 Bill Version: EC 83
 (S) Publish Date: 1-11-93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: Alaska Historical Commission
 Sponsor: _____
 Requestor: Governor

Department Affected: Natural Resources
 BRU: Parks Management
 Components: State Historic Preservation Program
 COMPONENT SERIAL NO. 451

EXPENDITURES/REVENUES:

(Thousands of Dollars)

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE fund source:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Nico Bus / AIC Phone: 485-2406
 Division: Commissioner's Office Date: Nov. 8, 1992
 Approved by Commissioner: Glenn A. Cida Date: 11/7/92
 Agency: Department of Natural Resources

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CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
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HOUSE COMMITTEE REPORT

(11)

Date Referred: February 1, 1993

FURTHER REFERRALS:

Date of Committee Action: 2/9/93

The FINANCE Committee considered:

EO 83

EXECUTIVE ORDER NO. 83 Re: GEOGRAPHIC BOARD & HISTORIC SITES ADVISORY COMM.

Merging the State Geographic Board and Historic Sites Advisory Committee ^{into} ~~into~~ the Alaska ^{HISTORICAL} ~~Historical~~ Commission in the Department of Natural Resources.

RECOMMENDATIONS:

be replaced with _____ the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: House Resources letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

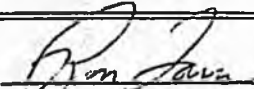
fiscal impact _____

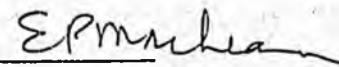
fiscal note(s) _____

zero fiscal note _____

[2] zero fiscal note(s) OCRA 1/11/93
DNR 1/11/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen P. Maclean</i> Maclean	✓	<i>Ben Grissendore</i> GRISSENDORE		X	
<i>Ronald J. Larson</i> Larson	X	<i>Tom Hoff</i> HOFFMAN	X		
<i>Mark Hanley</i> Hanley	X	<i>Tan Brown</i> BROWN	✓		
<i>Jean Parnell</i> Parnell	X				
<i>Therriault</i> Therriault	X				
<i>Richard Foster</i> FOSTER	X				
<i>Ferry Martin</i> MARTIN	2				


 CHAIRMAN'S SIGNATURE
 LARSON


 MACLEAN

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: EC 83
(S) Publish Date: 1-11-93

Revision Date: _____ Dept. Affected: Community and Regional Affairs
Title: E.O. merging Historical Commission, BRU: Administration and support
Geographic Names Board, Historical Sites Advisory Component: Office of the Commissioner
Sponsor: Commission Governor Hickel
Requestor: Governor Hickel COMPONENT SERIAL NO. _____

Expenditures/Revenues:	(Thousands of Dollars)					
	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
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
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING:	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary) This proposed legislation has no fiscal impact on DCRA. All staff work and occasional travel expenses for the Geographic Names Board are covered within the operating budget of the Office of the Commissioner. Staff time and minimal expenses are considered to be part of normal operating functions and obligations. No separate budget has ever been set up for AGNB operations/business.

Prepared by: Bruce Geraghty, Deputy Commissioner Phone: 465-4700
Division: Office of the Commissioner Date: December 9, 1992
Approved by Commissioner: [Signature] Date: 12-9-92
Agency: Department of Community and Regional Affairs

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FISCAL NOTE

No. 2
 Bill Version: EC 83
 (S) Publish Date: 1-11-93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Natural Resources
 Title: Alaska Historical Commission BRU: Parks Management
 Components: State Historic Preservation Program
 Sponsor: _____
 Requestor: Governor COMPONENT SERIAL NO. 451

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE fund source:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Nico Bus / 710 Phone: 485-2408
 Division: Commissioner's Office Date: Nov. 6, 1992
 Approved by Commissioner: Glenn A. Cida Date: 11/7/92
 Agency: Department of Natural Resources

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Official Business

Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol

Juneau, Alaska 99801-1182

HOUSE RESOURCES COMMITTEE
LETTER OF INTENT
REGARDING EXECUTIVE ORDER NO. 83

The House Resources Committee has considered Executive Order Number 83 and has voted to move it out of Committee. However, the committee wishes to express its concern about a legal issue which was brought to the committee's attention by attorney Terri Lauterbach of the Legislative Legal Services Division. According to Ms. Lauterbach, "It concerns whether an executive order can validly remove from partially exempt service an employee put there by the legislature through statute. Executive Order No. 83 attempts to do so."

As Lauterbach explains, "Section 9 of the order repeals AS 41.35.375 and AS 39.25.120(c)(9)(G). These statutory sections placed the executive director of the Alaska Historical Commission in the partially exempt service. Section 15 of the order enacts new language relating to the hiring of staff without any reference to the partially exempt service. This would have the effect of placing the executive director in the classified service."

The House Resources Committee recognizes that the Governor could probably accomplish this personnel reclassification without the executive order or legislative action through other means. However, the fact remains that Executive Order 83 appears to go beyond constitutionally determined limits of what can be accomplished in an executive order. The Committee wants to state for the record that its approval of Executive Order 83 in no way implies approval of violation of the legal parameters of executive orders, nor should it be construed to mean that any inappropriate substantive changes proposed by executive order in the future will be accepted.

A handwritten signature in cursive script, appearing to read "Bill Williams".

Rep. Bill Williams, Chairman
January 29, 1993

SENATE

Introduced: 1/11/93
 Referred: RES, FIN

HOUSE

Introduced: 1/11/93
 Referred: STA, RES, FIN

EXECUTIVE ORDER NO. 83

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of
 4 efficient administration to merge the State Geographic Board and the Historic Sites Advisory
 5 Committee into the Alaska Historical Commission in the Department of Natural Resources.

6 * **Sec. 2.** AS 29.55.020(a) is amended to read:

7 (a) In addition to existing municipal authority providing for the preservation,
 8 protection, and maintenance of historic sites, the local historical district commission,
 9 in consultation with the Alaska Historical Commission [HISTORIC SITES
 10 ADVISORY COMMITTEE] in the Department of Natural Resources, may establish
 11 historical districts within the boundaries of the municipality.

12 * **Sec. 3.** AS 29.55.020(b) is amended to read:

13 (b) A historical district shall be a reasonably compact area of historical
 14 significance in which two or more structures important in state or national history, and
 15 related by physical proximity or historical association, are located. For purposes of
 16 this section, "structures important in state or national history" means properties
 17 recommended by historical district commissions that are listed in the National Register
 18 of Historic Places or are characteristic of the Russian-American period before October
 19 18, 1867, the early territorial period before 1930, or early Native heritage, reflecting
 20 the indigenous characteristics of Native culture in Alaska. On recommendation of the
 21 governing body of a municipality and the Alaska Historical Commission [HISTORIC
 22 SITES ADVISORY COMMITTEE], the Department of Natural Resources may by
 23 regulation formulate additional criteria for the establishment of historical districts not

1 inconsistent with this subsection.

2 * Sec. 4. AS 41.35.020 is amended to read:

3 Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC, AND
4 ARCHEOLOGICAL RESOURCES; LOCAL DISPLAY. (a) The state reserves to
5 itself title to all historic, prehistoric, and archeological resources situated on land
6 owned or controlled by the state, including tideland and submerged land, and reserves
7 to itself the exclusive right of field archeology on state-owned or controlled land.
8 However, nothing in AS 41.35.010 - 41.35.240 diminishes the cultural rights and
9 responsibilities of persons of aboriginal descent or infringes upon their right of
10 possession and use of those resources that [WHICH] may be considered of historic,
11 prehistoric, or archeological value.

12 (b) Although title to historic, prehistoric, and archeological resources is in the
13 state, local cultural groups may obtain from the state, or retain, for study or display,
14 artifacts and other items of these resources from their respective cultures or areas if
15 the commission [COMMITTEE] created in AS 41.35.300 [AS 41.35.110] finds that
16 (1) the group has a durable building with weatherproof and fireproof construction and
17 humidity control and other factors necessary to serve as a museum which will assure
18 safe preservation of the items, (2) the item sought to be obtained is not one for which
19 there is an undue risk of damage during transportation, and (3) the item sought to be
20 obtained or retained is not one requiring special treatment or care beyond the ability
21 or means of the group requesting it. A group retaining such an item or obtaining one
22 from the state shall house it in the museum building and shall make every reasonable
23 effort to assure its safe preservation. If the commission [COMMITTEE] finds that
24 a local cultural group is not properly taking care of an item the group shall return it
25 to the department.

26 * Sec. 5. AS 41.35.030 is amended to read:

27 Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES.
28 Upon the recommendation of the commission [COMMITTEE], the governor may
29 declare by public order any particular historic, prehistoric, or archeological structure,
30 deposit, site, or other object of scientific or historic interest that is situated on land
31 owned or controlled by the state to be a state monument or historic site and the

1 governor may designate as a part of the monument or site as much land as is
2 considered necessary for the proper access, care and management of the object or site
3 to be protected. When an object or site is situated on land held in private ownership,
4 it may be declared a state monument or historic site in the same manner, with the
5 written consent of the owner.

6 * Sec. 6. AS 41.35.060 is amended to read:

7 Sec. 41.35.060. POWER TO ACQUIRE HISTORIC, PREHISTORIC, OR
8 ARCHEOLOGICAL PROPERTIES. (a) The department, with the recommendation
9 of the commission [COMMITTEE], may acquire real and personal properties that
10 have statewide historic, prehistoric, or archeological significance by gift, purchase,
11 devise, or bequest. The department shall preserve and administer property so acquired.
12 The department may acquire property adjacent to the property having historic,
13 prehistoric, or archeological significance when it is determined to be necessary for the
14 proper use and administration of the significant property.

15 (b) If an historic, prehistoric, or archeological property which has been found
16 by the department, upon the recommendation of the commission [COMMITTEE], to
17 be important for state ownership is in danger of being sold or used so that its historic,
18 prehistoric, or archeological value will be destroyed or seriously impaired, or is
19 otherwise in danger of destruction or serious impairment, the department may
20 establish the use of the property in a manner necessary to preserve its historic,
21 prehistoric, or archeological character or value. If the owner of the property does not
22 wish to follow the restrictions of the department, the department may acquire the
23 property by eminent domain under AS 09.55.240 - 09.55.460.

24 * Sec. 7. AS 41.35.230(2) is amended to read:

25 (2) "commission" ["COMMITTEE"] means the Alaska Historical
26 Commission established in AS 41.35.300 [HISTORIC SITES ADVISORY
27 COMMITTEE];

28 * Sec. 8. AS 41.35.310 is repealed and reenacted to read:

29 Sec. 41.35.310. COMPOSITION OF COMMISSION. The Alaska Historical
30 Commission consists of the following persons:

31 (1) the lieutenant governor;

1 (2) the state liaison officer appointed under 16 U.S.C. 470-470n (P.L.
2 89-665, National Historic Preservation Act of 1966);

3 (3) three persons with professionally relevant backgrounds appointed
4 from each of the following fields: history, architecture, and archeology;

5 (4) one person appointed to represent indigenous ethnic groups;

6 (5) two persons appointed from a list of recommended nominees,
7 containing at least four names, submitted each year by the Alaska Historical Society;

8 (6) one other person.

9 * Sec. 9. AS 41.35.320 is repealed and reenacted to read:

10 Sec. 41.35.320. APPOINTMENT OF MEMBERS. Members of the
11 commission are appointed by the governor and confirmed by the legislature meeting
12 in joint session. The members of the commission serve at the pleasure of the
13 governor.

14 * Sec. 10. AS 41.35.330 is repealed and reenacted to read:

15 Sec. 41.35.330. TERM OF OFFICE. The term of office for a member of the
16 commission is three years, except for those who are members by virtue of their
17 positions with the state, who serve for as long as they remain in the position by virtue
18 of which they are members of the commission. A member appointed to fill a vacancy
19 serves for the unexpired term of the member succeeded.

20 * Sec. 11. AS 41.35.340 is repealed and reenacted to read:

21 Sec. 41.35.340. COMPENSATION. The members of the commission serve
22 without compensation but are entitled to per diem and travel expenses authorized by
23 law for other boards and commissions.

24 * Sec. 12. AS 41.35 is amended by adding new sections to read:

25 Sec. 41.35.345. OFFICERS. At the first meeting of each year, the
26 commission shall elect a chairman from among its members.

27 Sec. 41.35.347. MEETINGS AND QUORUM. The commission shall meet
28 at least twice a year. Additional meetings may be called by the chairman or by
29 petition of at least five members. Five members of the commission constitutes a
30 quorum.

31 * Sec. 13. AS 41.35.350 is amended to read:

1 Sec. 41.35.350. DUTIES OF THE COMMISSION. The duties of the
2 commission are to

3 (1) survey, evaluate, and catalog Alaska prehistory and history
4 materials now in print;

5 (2) ascertain and register what Alaska prehistory and history work is
6 now in progress;

7 (3) identify the existing gaps in the coverage of Alaska's past in
8 presently available published works and establish priorities for bridging them;

9 (4) prepare a thematic study of Alaska's history for historic
10 preservation;

11 (5) identify the sources of Alaska's history;

12 (6) coordinate the production and publication of works that will
13 adequately present all aspects of Alaska's past; [AND]

14 (7) cooperate with the federal government in programs relating to
15 history and archaeology;

16 (8) develop criteria for the evaluation of state monuments and
17 historic sites and all real and personal property that may be considered to be of
18 historic, prehistoric, or archeological significance as would justify their
19 acquisition and ownership by the state;

20 (9) cooperate with the department in formulating and
21 administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L.
22 89-665, National Historic Preservation Act of 1966);

23 (10) review those surveys and historic preservation plans that may
24 be required, and approve properties for nomination to the National Register as
25 provided for in 16 U.S.C. 470-470n (P.L. 89-665, National Historic Preservation
26 Act of 1966);

27 (11) provide necessary assistance to the governor and the
28 legislature for achieving balanced and coordinated state policies and programs
29 for the preservation of the state's historic, prehistoric, and archeological
30 resources;

31 (12) consult with local historical district commissions regarding the

1 establishment of historical districts under AS 29.55.010 - 29.55.020 and the
2 approval of project alterations under AS 45.98.040; recommend, if appropriate,
3 the formulation of additional criteria for the designation of historical districts
4 under AS 29.55.020(b); approve plans for and evaluate the suitability of specific
5 structures for purposes of loan eligibility and continuance under the historical
6 district revolving loan fund (AS 45.98); and consult with the Department of
7 Commerce and Economic Development relative to the adoption of regulations for
8 historical district loans under AS 45.98;

9 (13) determine the correct and most appropriate names of the
10 lakes, streams, places, and other geographic features in the state and their
11 spelling;

12 (14) pass upon and give names to lakes, streams, places, and other
13 geographic features in the state for which no single generally acceptable name
14 has been in use;

15 (15) cooperate with local subdivisions of government and, with
16 their approval, change the names of lakes, streams, places, and other geographic
17 features to eliminate duplication of names in the state;

18 (16) prepare and publish an official state dictionary of geographic
19 names and publish it for sale, either as a complete whole or in parts when ready;
20 and

21 (17) serve as the state representatives of the United States Board
22 on Geographic Names and cooperate with that board so that there is no conflict
23 between the state and federal designations of geographic features in the state.

24 * Sec. 14. AS 41.35.350 is amended by adding new subsections to read:

25 (b) In carrying out its duties to name geographic features under this section,
26 the commission shall consider using Alaska Native place names for geographic
27 features in the state that have not previously been named, using Native language
28 writing systems accepted by the Alaska Native Language Center of the University of
29 Alaska at Fairbanks.

30 (c) When the commission gives a name to a lake, stream, place, or other
31 geographic feature in the state, the name is the official name of the geographic feature

1 and shall be used in all maps, records, documents, and other publications issued by
2 the state or its departments and political subdivisions.

3 (d) A person may not attempt to modify local usage or name an unnamed
4 geographic feature in an advertisement or publication without first obtaining the
5 approval of the commission. If a person violates this section, the commission shall
6 promptly announce its disapproval and shall adopt an official name for the feature.

7 * Sec. 15. AS 41.35 is amended by adding a new section to read:

8 Sec. 41.35.375. POWERS OF CHAIRMAN. Subject to available
9 appropriations, the chairman may, with the concurrence of a majority of the
10 commission, employ necessary personnel and may contract for the services of experts
11 and other persons who may be needed.

12 * Sec. 16. AS 44.37.040 is amended to read:

13 Sec. 44.37.040. DUTIES OF DEPARTMENT WITH RESPECT TO
14 HISTORIC PRESERVATION AND ARCHEOLOGY. The Department of Natural
15 Resources shall

16 (1) sponsor, engage in, and direct fundamental research into the
17 archeology of the state and encourage and coordinate archeological research and
18 investigation undertaken in the state;

19 (2) cooperate with the Alaska Historical Commission [HISTORIC
20 SITES ADVISORY COMMITTEE] in performing their functions under AS 41.35;

21 (3) ensure that historic, prehistoric, and archeological resources are
22 properly reported by persons or agencies engaged in public construction work, and
23 protect sites and objects of significance discovered at state sites or discovered during
24 the course of public construction, and encourage the protection of sites and objects
25 discovered during the course of any other construction work;

26 (4) investigate reported historic, prehistoric, or archeological resources
27 and appraise them for any future excavation, preservation, and interpretation;

28 (5) serve as a central clearinghouse for information on all historic,
29 prehistoric, and archeological resource excavation in the state.

30 * Sec. 17. AS 45.98.020 is amended to read:

31 Sec. 45.98.020. HISTORICAL DISTRICT LOANS. Upon endorsement and

1 plan approval by a local historical district commission established under AS 29.55.010
2 or former AS 29.48.108 and the recommendation of a majority of the members of the
3 Alaska Historical Commission [HISTORIC SITES ADVISORY COMMITTEE], the
4 Department of Commerce and Economic Development may make loans to a person,
5 firm, business, or municipality subject to applicable laws for the restoration,
6 improvement, rehabilitation, or maintenance of a structure that is

7 (1) within the boundaries of a historical district established under
8 AS 29.55.020 or former AS 29.48.110 and identified as important in state or national
9 history as provided for in AS 29.55.020(b) or former AS 29.48.110(b); or

10 (2) a building or structure within a historical district, that is suitable
11 for superficial modification so that it can conform to the period or motif of the
12 surrounding buildings or structures that are the reason for the area's designation as a
13 historical district.

14 * Sec. 18. AS 45.98.030 is amended to read:

15 Sec. 45.98.030. POWERS AND DUTIES OF THE DEPARTMENT. For
16 purposes of administering this chapter, the Department of Commerce and Economic
17 Development may

18 (1) prescribe the form and procedure for submitting loan applications
19 under this chapter;

20 (2) designate agents and delegate powers to them as is necessary;

21 (3) in consultation with the Alaska Historical Commission
22 [HISTORIC SITES ADVISORY COMMITTEE], adopt regulations necessary to carry
23 out its functions, including regulations for the process of plan approval by the
24 commission [COMMITTEE] and regulations to establish reasonable fees for services
25 provided and charges for collecting the fees;

26 (4) establish amortization plans for the repayment of loans not to
27 exceed 30 years;

28 (5) collect the fees and collection charges established under this
29 section.

30 * Sec. 19. AS 45.98.060 is amended to read:

31 Sec. 45.98.060. PENALTY PROVISION. After a project for which a loan

1 is granted is commenced, if the Department of Commerce and Economic Development
2 or a local historical district commission, in consultation with the Alaska Historical
3 Commission [HISTORIC SITES ADVISORY COMMITTEE], determines that the
4 project is inconsistent with the guidelines or stipulations for construction, or otherwise
5 fails to conform to the requirements of the loan, the interest rate on the state's share
6 of the loan shall be increased to the highest rate of interest allowed at that time as
7 provided in AS 45.45.010. In addition, a penalty in the amount of two percent of the
8 balance of the loan shall be assessed by the Department of Commerce and Economic
9 Development.

10 * Sec. 20. AS 39.25.120(c)(9)(G); AS 41.35.110, 41.35.120, 41.35.130, 41.35.140,
11 41.35.150, 41.35.160, 41.35.170, 41.35.180, 41.35.190, 41.35.370; AS 44.19.054, 44.19.056,
12 44.19.058, 44.19.059, 44.19.060, and 44.19.062 are repealed.

13 * Sec. 21. TRANSITION. (a) The terms of the members of the State Geographic Board,
14 the Historic Sites Advisory Committee, and the Alaska Historical Commission terminate on
15 the effective date of this Order. The governor may appoint to the Alaska Historical
16 Commission created by this Order, a person who has served on the State Geographic Board,
17 the Historic Sites Advisory Committee, or the Alaska Historical Commission as it existed
18 before the effective date of this Order, and who meets the qualifications prescribed in this
19 Order. The terms of persons initially appointed to the Alaska Historical Commission created
20 by this Order must be set as provided in AS 39.05.055 so as to establish the staggering of
21 terms.

22 (b) Litigation, hearings, investigations, and other proceedings pending under a law
23 amended or repealed by this Order, or in connection with functions transferred by this Order,
24 continue in effect and may be continued and completed notwithstanding a transfer or
25 amendment or repeal provided for in this Order.

26 (c) Contracts, rights, liabilities and obligations created by or under a law amended
27 or repealed by this Executive Order, and in effect on June 30, 1993, remain in effect
28 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other
29 property of agencies of the state whose functions are transferred under this Order shall be
30 transferred to implement the provisions of this Order.

31 * Sec. 22. This Order takes effect July 1, 1993.

DATED: _____

Walter J. Hickel
Governor

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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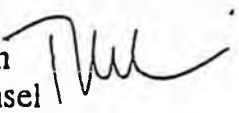
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 18, 1993

SUBJECT: Executive Order No.83
Alaska Historical Commission
(Work Order No. 8-GS1006.A)

TO: Chairs and Co-Chairs
House and Senate
Committees of Referral for E.O. 83

FROM: Terri Lauterbach 
Legislative Counsel

JAN 18 RECD

For the purpose of determining if there are legal or technical drafting issues to bring to your attention, our office has reviewed Executive Order No. 83, which merges the State Geographic Board and the Historic Sites Advisory Committee into the Alaska Historical Commission in the Department of Natural Resources.

~~There is only one~~ potential legal issue to bring to your attention about this order. It concerns whether an executive order can validly remove from the partially exempt service an employee put there by the legislature through statute. Executive Order No. 83 attempts to do so.

Section 9 of the order repeals AS 41.35.375 and AS 39.25.120(c)(9)(G). These statutory sections placed the executive director of the Alaska Historical Commission in the partially exempt service. Section 15 of the order enacts new language relating to the hiring of staff without any reference to the partially exempt service. This would have the effect of placing the executive director in the classified service.

It could be argued that this change in classification of an employee goes beyond what the state constitution says can be accomplished in an executive order, i.e., the transferring of an agency's duties. However, the committee could choose to view this as an insignificant extension of an executive order since AS 39.25.130(c) already allows a position in the partially exempt service to be moved to the classified service by the personnel board upon recommendation of the commissioner of administration. This means that the governor indirectly could probably accomplish the personnel reclassification without the executive order or legislative action anyway.

— LAA LEGAL SERVICES LEGAL —
OPINION

Committees of Referral for E.O. 83

January 18, 1993

Page 2

Your options are to

- (1) recommend disapproval of the executive order, citing the attempt to accomplish more than the transfer of duties;
- (2) recommend approval of the executive order but note that this approval should not be construed in the future as precedent for acquiescing to other types of substantive changes that go beyond the transferring of agency functions;
- (3) recommend approval of the executive order.

Please let me know if this memo prompts further questions or if I can be of other assistance.

TML:mi
93-007.mai

OFFICE OF THE GOVERNOR

FACT SHEET

EXECUTIVE ORDER NO. 83: ALASKA HISTORICAL COMMISSION

Executive Order No. 83 combines the State Geographic Board and the Historic Sites Advisory Committee into the Alaska Historical Commission. It maintains the Alaska Historical Commission in the Department of Natural Resources, where the Office of History and Archaeology is located.

There has been wide support for this consolidation. The Governor's Task Force on Boards and Commissions, a legislative, executive, and public forum, recommended unanimously the consolidation of the Alaska Historical Commission, the Historical Sites Advisory Committee, and the Geographic Board.

In addition, a task force with representatives from the Alaska Historical Commission and the Historic Sites Advisory Committee, two private statewide groups (the Alaska Historical Society and the Alaska Association for Historic Preservation), and the Office of History and Archaeology reviewed the purposes of two of these boards. The Historical Commission and the Historic Sites Advisory Committee voted in support of their merger.

The functions and duties of the former boards will remain the same under the new commission. A membership of nine members is described on pages three and four of the Executive Order. Requirements such as having certain members nominated by the Alaska Historical Society, and having persons with professionally relevant backgrounds from the fields of history, architecture, or archaeology remain the same. Membership decreases from a total of 21 to 9.

We see several benefits to this consolidation:

1. Provides a coordinated effort between recognizing and presenting Alaska history, evaluating and approving historical sites, and naming geographic places, which often involves names of historical figures, places, and events.
2. Increases public accessibility as there will be one entity, instead of three, that deals with historical and geographical concerns of the public.
3. Saves money because of the decrease in total membership and lower administrative costs associated with one commission.

No additional funds are needed for this consolidation. The Department of Natural Resources and the Department of Community and Regional Affairs reflect zero fiscal notes.

The effective date for this merger is July 1, 1993.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION

Alaska Historical Commission

WALTER J. HICKEL, GOVERNOR

3601 C STREET, Suite 1278
ANCHORAGE, ALASKA 99503
PHONE: (907) 762-2622

MAILING ADDRESS:
P.O. Box 107001
ANCHORAGE, ALASKA 99510-7001

November 30, 1992

Re: 1060-6 Annual Report

The Honorable Walter J. Hickel
P.O. Box 110001
Juneau, Alaska 99811-0001

RECEIVED
DEC 02 1992

HAND DELIVERED
GOVERNOR'S OFFICE

Handwritten notes:
DWR
cc: WJH
cc: L O
cc: Patty F
cc: BCC
K X
L X

Dear Governor Hickel:

AS 41.35.360 directs the Alaska Historical Commission to submit to you an annual report of its activities. I am pleased to submit the following report for the period January 1 to December 31, 1992.

The Commission is charged with promoting the study and understanding of Alaska's history. It is the only agency with such a charge. It serves as a forum for citizens' voices in the development of State history policy.

Lieutenant Governor John B. Coghill chairs the Alaska Historical Commission. Public members include Marilyn R. Knapp of Sitka, Elizabeth A. Tower, M.D. of Anchorage, and Molly C. Tryck of Anchorage. The fourth seat is not filled. The terms of Ms. Knapp and Dr. Tower have expired, but according to statute they continue to serve until reappointed or until new appointments are made. I serve as ex-officio member of the Commission.

Commission members met once, on October 28, 1992, in Anchorage with the Historic Sites Advisory Committee. Earlier in the year, a task force with representatives from the two boards drafted legislation for merging the two entities. No action was taken during the 1992 legislative session, but the Department of Law has prepared an executive order for your consideration for the 1993 legislative session. It would merge the Alaska Historical Commission, the Historic Sites Advisory Committee, and the State Geographic Names Board into a single entity that would retain the name Alaska Historical Commission.

A major accomplishment this past year was reprinting Alaska's Heritage, the secondary level history textbook prepared by the Commission in 1986. The funds to print the book came from the receipts of sales of previous Commission-supported publications. In other news, between 1987 and September 1, 1992, 5,847 copies of the Commission's video Alaska At War have been sold.

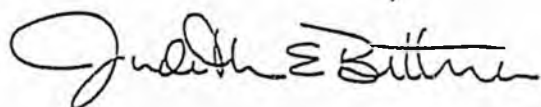
For several years, Commission members have been concerned about the haphazard organization of centennial commemorations. They sponsored a workshop on planning centennial commissions and proposed creation of a State task force to oversee coordination of activities. In October, the Tourism Coordinating Council created a Gold Rush Centennial Task Force and invited Judy Bittner to be co-chair with Wendy Wolf of the Division of Tourism. Commission member Elizabeth Tower will be a member of the task force as well. A survey has been sent out to interested members so that a meeting can be held early in 1993.

At their meeting in October, Commission members approved preparation of a gold rush time line, and authorized expending funds from its special receipts account for the project. The project reflects the members' continuing interest in preparing materials to supplement the textbook and their interest in having commemorative activities make a lasting contribution to our understanding of the past.

For the twelve month period of this report, the Commission expended \$4,200 in general funds and \$60,000 in special receipts account funds. During the period covered by this report, the Commission received \$2,868 in royalties. These will be used for future projects.

Much reduced from the 1980s, commission programs continue to assist Alaskans, historians, and groups including local historical societies, pioneer groups, students, and tourism groups.

Sincerely,

A handwritten signature in cursive script that reads "Judith E. Bittner".

Judith E. Bittner
State Historic Preservation Officer

BOARD: GEOGRAPHIC BOARD, STATE

BOARD IDENTIFICATION NUMBER: 41

TITLE: State Geographic Board

DEPT: Department of Community and Regional Affairs

AUTHORITY: AS 44.19.054

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: No term

DESCRIPTION: 8 members - 1 public appointed by Governor; plus 7 officials: Commissioner of the Dept. of Community and Regional Affairs, state museum curator, state historical librarian, Commissioners of the Dept. of Transportation and Public Facilities, Dept. of Natural Resources, the Dept. of Education, and Director of the Division of Lands in the Dept. of Natural Resources.

SPECIAL FACTS:

FUNCTION: Determines names and changes names of geographic features; prepares dictionary of geographic names; state representatives on U.S. Geographic Board.

COMPENSATION: Standard travel/per diem.

MEETINGS: 3 times per year; 3 days maximum.

*FOR FURTHER INFORMATION CONTACT: Commissioner, Dept. of
Community and Regional Affairs, P.O. Box 112100, Juneau, AK
99811-2100 PHONE: 465-4700 (Revised 3/24/92)

BOARD: HISTORIC SITES ADVISORY COMMITTEE

BOARD IDENTIFICATION NUMBER: 44

TITLE: Historic Sites Advisory Committee

DEPT: Department of Natural Resources

AUTHORITY: AS 41.35.110

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 3 years

DESCRIPTION: 7 members appointed by Governor: 3 with professionally relevant backgrounds from each of the following fields: history, architecture, archeology; 2 representing indigenous ethnic groups; plus state museum director and state liaison officer (appointed under National Historic Preservation Act of 1966) with no terms; serve at the pleasure of Governor; committee elects chair.

SPECIAL FACTS: Quorum - 5 members. Serve at the pleasure of the Governor.

FUNCTION: Develops criteria for evaluation of monuments and historic sites, formulates and reviews surveys, approves recommendations to National Register; recommends historic preservation grant project for funding.

COMPENSATION: Standard travel/per diem.

MEETINGS: At least three times a year; two days maximum. Possibly one meeting a year via telconference.

*FOR FURTHER INFORMATION CONTACT: Chief, Office of History/
Archaeology, Division of Parks, Dept. of Natural Resources,
Box 107001, Anchorage, AK 99510-7001 PHONE: 762-2626

(Revised 10/27/92)

BOARD: HISTORICAL COMMISSION, ALASKA

BOARD IDENTIFICATION NUMBER: 45

TITLE: Alaska Historical Commission

DEPT: Department of Natural Resources

AUTHORITY: AS 41.35.300

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 2 years

DESCRIPTION: 6 members: 4 appointed by Governor from nominees submitted each year by the Alaska Historical Society (persons who have served on the commission may be renominated); Lieutenant Governor (ex-officio) serves as chair; and the Executive Director (ex-officio) who may not vote.

SPECIAL FACTS: Annual report to Governor.

FUNCTION: Surveys, evaluates, and catalogs printed prehistory/history materials; registers work in progress; identifies sources; coordinates production and publication of works to present Alaska's past.

COMPENSATION: Standard travel/per diem.

MEETINGS: 2-3 times per year; 16 days maximum.

*FOR FURTHER INFORMATION CONTACT: Chief, Office of History/
Archaeology, Dept. of Natural Resources, P.O. Box 107001,
Anchorage, AK 99510-7001 PHONE: 762-2626 (Revised 3/24/92)

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

Geographic Names Board

OPERATING FY 93

Personal Services	10.7	PS includes 20% of the salary & benef
Travel	1.3	for an Executive Sec. position.
Contractual	5.3	
Supplies	0.4	
Equipment		
Land & Structures		
Grants, Claims		
Miscellaneous		
TOTAL OPERATING	17.7	

CAPITAL

REVENUE FUND SOURCE: 1004

FUNDING

General Fund	17.7	
Federal Funds		
Other Fund Source GF/PR		
TOTAL	17.7	

POSITIONS

Full-Time
Part-Time
Temporary

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

Historic Sites Advisory Commission

OPERATING	FY 93	
Personal Services		6.0
Travel		3.6
Contractual		1.0
Supplies		1.0
Equipment		
Land & Structures		
Grants, Claims		
Miscellaneous		
TOTAL OPERATING		11.6

CAPITAL

REVENUE FUND SOURCE:

FUNDING	
General Fund	11.6
Federal Funds	
Other Fund Source:	
TOTAL	11.6

POSITIONS
Full-Time
Part-Time
Temporary

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

Historical Commission

OPERATING	FY 93	
Personal Services		
Travel		3.4
Contractual		1.0
Supplies		0.8
Equipment		
Land & Structures		
Grants, Claims		
Miscellaneous		
TOTAL OPERATING		5.2

CAPITAL

REVENUE FUND SOURCE:

FUNDING		
General Fund		5.2
Federal Funds		
Other Fund Source:		
TOTAL		5.2

POSITIONS
Full-Time
Part-Time
Temporary

EO

85

HFIN

FILE

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 23, of the Alaska constitution, I am transmitting an Executive Order transferring the fish bonding program from the Department of Labor to the Department of Revenue.

Under that program, fish processors and primary fish buyers are required to post a bond to ensure that money is in place for the payment of wage claims, claims from commercial fishermen selling their catch, and unemployment insurance contributions. This program would be more efficiently run under the Department of Revenue because the enforcement mechanism is under that department and that department already operates a similar bonding program for fishery business licenses to ensure payment of fish taxes.

Sincerely,

Walter J. Hickel
Governor

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 19, 1993

JAN 19 1993

SUBJECT: Executive Order 85

TO: Representative Bill Williams
ATTN: Mary McDowell

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether Executive Order 85 does more than transfer responsibility for administering bonding requirements for fish processors and primary fish buyers (referred to collectively as fish processors) from the Department of Labor to the Department of Revenue.

Executive Order 85 transfers responsibility for administering fish processor bonding requirements to the Department of Revenue. The Executive Order makes almost no substantive change to the fish processor bonding requirements. The existing bonding requirements of AS 16.10.290 - 16.10.295 are reenacted virtually word for word (except for necessary technical conforming changes) as a new article in AS 44.25.

However, the Executive Order will make one substantive change in the law regarding fish processor bonding. Under current law, AS 16.10.292 authorizes the commissioner of labor to prescribe the form by which a fish processor demonstrates compliance with the fish processor bonding requirements.^{1/} The Executive Order does not reenact this provision as part of the new article in AS 44.25. It is my understanding that AS 16.10.292 was not carried forward as part of the new statutes enacted by the Executive Order because it was considered to be unnecessarily duplicative of other provisions enacted by the Executive Order.

^{1/} AS 16.10.292 states:

FILING EVIDENCE OF COMPLIANCE. A fish processor or primary fish buyer subject to AS 16.10.270 - 16.10.295 shall initially file evidence of compliance with the bonding requirements of AS 16.10.290 - 16.10.295, in the form prescribed by the commissioner.

Attachment 3
1/24/93

In my opinion, the provisions of AS 16.10.292 do not duplicate other provisions contained in the Executive Order and should have been included in the Executive Order. As explained above, AS 16.10.292 expressly allows the commissioner of labor to prescribe the form by which a fish processor demonstrates compliance with the fish processor bonding requirements. This provision is beneficial because there are a couple of ways in which a processor may comply with the bonding requirement. A fish processor may comply with the bonding requirement by posting a surety bond with the commissioner of labor (AS 16.10.290(a)), by having adequate lienable property in the state (AS 16.10.290(c)), or by not purchasing fish and not hiring employees (AS 16.10.293(a)). It is helpful to the commissioner of labor to be able to specify the form by which a fish processor demonstrates compliance with the bonding requirement.

Having concluded that the Executive Order makes a significant change in the law by not reenacting provisions of AS 16.10.292, I must further conclude that the elimination of AS 16.10.292 has no practical effect on the ability of the commissioner of revenue to enforce the fish processor bonding requirements. Under the Executive Order, the commissioner of revenue is given authority to adopt regulations to carry out the provisions of the fish processor bonding statutes. The commissioner may adopt regulations that are reasonably necessary to specify the manner and form by which a fish processor demonstrates compliance with the bonding requirements.

In conclusion, the Executive Order does not make any meaningful change in the substantive provisions of state law regarding fish processor bonding requirements.

If I may be of further assistance, please advise.

GU:lmb:mi
93-006.lmb

JAN 25 1993

BILL NO: Executive Order No. 85

DATE: January 25, 1993

TITLE: Bond Program Transfer

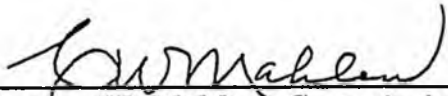
CONTACT: Arbe Williams
465-2700

Executive Order No. 85 transfers the responsibility for administering the surety bond program for licensure as a fish processor or primary fish buyer from the Department of Labor to the Department of Revenue.

The licensing of fish processors and fish buyers is administered by the Department of Revenue. Applicants must prove to Revenue that they have a bond on file with the Department of Labor before Revenue will issue the proper fisheries license. The transfer of this program will eliminate one state agency that processors and buyers will have to deal with in order to obtain the proper licensing, thereby benefiting the public by reducing the red tape required to do business in the state.

This order addresses an often voiced suggestion about the fish licensing process. The Department supports this Executive Order.

APPROVED:



Charles W. Mahlen, Commissioner

POSITION PAPER/Department of Labor

FISCAL NOTE

Bill Version: ED 85
 (S) Publish Date: 1-11-93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Revenue
 Title: Transfer Fish Bonding Program from Labor to Revenue BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: _____
 Requestor: _____ COMPONENT SERIAL NO. 113

(Thousands of Dollars)

Expenditures/Revenues:	FY94	FY95	FY96	FY97	FY98	FY99
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE FUND SOURCE:	0	0	0	0	0	0

(Thousands of Dollars)

FUNDING:	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

This executive order transfer the bonding program for fish processors and buyers from the Department of Labor to the Department of Revenue effective July 1, 1993.

Prepared by: Larry E. Meyers, Director LEM Phone: 465-2320
 Division: Income and Excise Audit Division Date: January 6, 1993
 Approved by Commissioner: [Signature] Date: 1/11/93
 Agency: REVENUE

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FISCAL NOTE

No. 2

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : Bill Version: ED 85
(S) Publish Date: 1-11-93

Revision Date: _____
Title: Transfer of the fish bonding
program to the Department of Revenue
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Wage & Hour
COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill would transfer the fish buyers and processors bonding program to the Department of Revenue (DOR). No fiscal impact is reflected here because DOL has already deleted the associated funding from the department's FY 94 budget submittal. This reduction was possible because DOL invested approximately \$25.0 in automating this program. The automated system will be provided to DOR.

Prepared by: Don Study, Director Phone: 465-6003
Division: Labor Standards & Safety Date: 1/6/93
Approved by Commissioner: Charles W. Mahlen
Agency: Department of Labor Date: 1/6/93

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Official Business

Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol

Juneau, Alaska 99801-1182

HOUSE RESOURCES COMMITTEE LETTER OF INTENT REGARDING EXECUTIVE ORDER NUMBER 85

The House Resources Committee has considered Executive Order Number 85 and has voted to move it out of Committee. However, the committee wishes to express its concern about a legal issue which was brought to the committee's attention by attorney George Utermohle of the Legislative Legal Services Division.

Mr. Utermohle noted that in moving the fish processor bonding requirements from the Department of Labor to the Department of Revenue, Executive Order 85 eliminates AS 16.10.292. Mr. Utermohle's memorandum states, "In my opinion, the provisions of AS 16.10.292 do not duplicate other provisions contained in the Executive Order and should have been included in the Executive Order." Since executive orders are meant only for the transfer of functions between state agencies and the Constitution does not permit substantive change in law to be made by executive order, the omission of the language in AS 16.10.292 poses a legal question. However, Utermohle concludes that while Executive Order 85 makes significant change in law, he "must further conclude that the elimination of AS 16.10.292 has no practical effect on the ability of the commissioner of Revenue to enforce the fish processor bonding requirements."

The House Resources Committee would like to state for the record that its approval of Executive Order 85 in no way implies approval of violation of the legal parameters of executive orders, nor should it be construed to mean that any inappropriate substantive changes proposed by executive order in the future will be accepted.

A handwritten signature in cursive script that reads "Bill Williams".

Rep. Bill Williams, Chairman
January 29, 1993

SENATE

Introduced: 1/11/93
 Referred: L&C, FIN

HOUSE

Introduced: 1/11/93
 Referred: STA, RES, FIN

EXECUTIVE ORDER NO. 85

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * Section 1. FINDINGS. As governor, I find that it would be in the best interests of the
 4 efficient administration of the state to move the bonding program that serves as security for
 5 the collection of wages and payment for raw fish from the Department of Labor to the
 6 Department of Revenue. The Department of Revenue is the agency currently charged with
 7 issuing licenses to fish processors and primary fish buyers, and it administers a similar
 8 bonding program to ensure the payment of fisheries taxes.

9 * Sec. 2. AS 44.25.020 is amended to read:

10 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue
 11 shall

12 (1) enforce the tax laws of the state;

13 (2) collect, account for, have custody of, invest, and manage all state
 14 funds and all revenues of the state except revenues incidental to a program of
 15 licensing and regulation carried on by another state department and funds managed
 16 and invested by the Alaska State Pension Investment Board;

17 (3) register cattle brands;

18 (4) supply necessary clerical and administrative services for the
 19 Alcoholic Beverage Control Board;

20 (5) invest and manage the balance of the power development fund in
 21 accordance with AS 44.83.386;

22 (6) in accordance with the policies established by the board of trustees
 23 of the Alaska State Pension Investment Board, collect, account for, have custody of,

1 asserted under this section within two years from the date the bond, cash deposit or
2 other security is filed, the term of the bond, cash deposit or other security shall be two
3 years; if a claim has been asserted within two years, the term of the bond, cash
4 deposit or other security shall be for five years.

5 (c) A bond is not required if the fish processor or primary fish buyer has
6 more than the amount of the bond in lienable property in the state and provides proof
7 of the property satisfactory to the commissioner.

8 (d) Upon certification by the commissioner that a person applying for a
9 license as a fish processor or primary fish buyer has complied with this section, the
10 Department of Revenue may issue that person a license to engage in the business of
11 fish processor or primary fish buyer.

12 (e) The commissioner may accept the assignment of a claim held by a person
13 against a fish processor or primary fish buyer under this section and may bring suit
14 upon the bond, cash deposit or other security on behalf of the assignor in the superior
15 court of the judicial district in which the work is done or in any judicial district in
16 which jurisdiction may be obtained. This action may not be construed to limit the
17 right of a person having a claim under this section against a fish processor or primary
18 fish buyer to personally bring suit upon the bond, cash deposit, or other security, in
19 which case a copy of the complaint shall be served by registered or certified mail
20 upon the commissioner at the time suit is filed. The commissioner shall maintain a
21 record, available for public inspection, of all suits commenced under this subsection.
22 The service shall constitute service on the surety, and the commissioner shall transmit
23 the complaint or a copy of it to the surety within 72 hours after it has been received.

24 (f) If the surety on the bond desires to cancel the bond, the surety may do so
25 by giving the commissioner written notice of intention to cancel. The cancellation is
26 effective 30 days after the notice is delivered to the commissioner.

27 (g) If a judgment is entered against the cash deposit, the commissioner, upon
28 receipt of a certified copy of a final judgment, shall pay the judgment from the
29 amount of the deposit.

30 Sec. 44.25.041. EXEMPTIONS FROM BONDING REQUIREMENT. (a)
31 A fish processor or primary fish buyer that does not purchase fish or hire employees

CORRECTION

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

SENATE

Introduced: 1/11/93
 Referred: L&C, FIN

HOUSE

Introduced: 1/11/93
 Referred: STA, RES, FIN

EXECUTIVE ORDER NO. 85

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

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 4 efficient administration of the state to move the bonding program that serves as security for
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 6 Department of Revenue. The Department of Revenue is the agency currently charged with
 7 issuing licenses to fish processors and primary fish buyers, and it administers a similar
 8 bonding program to ensure the payment of fisheries taxes.

9 * **Sec. 2.** AS 44.25.020 is amended to read:

10 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue
 11 shall

- 12 (1) enforce the tax laws of the state;
- 13 (2) collect, account for, have custody of, invest, and manage all state
 14 funds and all revenues of the state except revenues incidental to a program of
 15 licensing and regulation carried on by another state department and funds managed
 16 and invested by the Alaska State Pension Investment Board;
- 17 (3) register cattle brands;
- 18 (4) supply necessary clerical and administrative services for the
 19 Alcoholic Beverage Control Board;
- 20 (5) invest and manage the balance of the power development fund in
 21 accordance with AS 44.83.386;
- 22 (6) in accordance with the policies established by the board of trustees
 23 of the Alaska State Pension Investment Board, collect, account for, have custody of,

1 invest, and manage the state funds for which the board is responsible;

2 (7) administer the surety bond program for licensure as a fish processor
3 or primary fish buyer.

4 * Sec. 3. AS 44.25 is amended by adding new sections to read:

5 ARTICLE 2. SURETY BOND PROGRAM FOR FISH PROCESSORS
6 AND PRIMARY FISH BUYERS.

7 Sec. 44.25.040. SECURITY FOR COLLECTION OF WAGES AND
8 PAYMENT FOR RAW FISH. (a) A person applying for a license as a fish
9 processor or primary fish buyer shall file with the commissioner of revenue a surety
10 bond running to the State of Alaska conditioned upon the promise to pay (1) all
11 persons furnishing labor to a fish processor or primary fish buyer, including
12 contractual employee benefits; (2) independent registered commercial fishermen for
13 the price of the raw fishery resource purchased from them; and (3) unemployment
14 insurance contributions. If the surety bond is insufficient to satisfy all obligations
15 under this subsection, the obligations to persons furnishing labor and to independent
16 registered commercial fishermen shall be paid before unemployment insurance
17 contributions are paid. The surety or sureties must be satisfactory, in the determination
18 of the commissioner.

19 (b) The amount of the bond shall be \$10,000 unless, during the preceding five
20 years, that amount was insufficient to satisfy a final judgment resulting from a claim
21 asserted against the bond, cash deposits, or other security filed under this section. If
22 \$10,000 was insufficient, the bond shall be \$50,000; if \$50,000 was insufficient, the
23 bond shall be \$100,000. If the commissioner determines that during the preceding
24 five years, a fish processor or primary fish buyer (1) has engaged in the business of
25 fish processor or primary fish buyer in the state while not in compliance with this
26 section and (2) has not yet satisfied a final judgment entered against the processor or
27 fish buyer for payment for labor furnished to, or raw fishery resources purchased by,
28 the processor or fish buyer, then the amount of the bond for the processor or fish
29 buyer shall be \$100,000. In lieu of the surety bond the fish processor or primary fish
30 buyer may file with the commissioner a cash deposit or other negotiable security
31 acceptable to the commissioner in the amount specified for the bond. If no claim is

1 asserted under this section within two years from the date the bond, cash deposit or
2 other security is filed, the term of the bond, cash deposit or other security shall be two
3 years; if a claim has been asserted within two years, the term of the bond, cash
4 deposit or other security shall be for five years.

5 (c) A bond is not required if the fish processor or primary fish buyer has
6 more than the amount of the bond in lienable property in the state and provides proof
7 of the property satisfactory to the commissioner.

8 (d) Upon certification by the commissioner that a person applying for a
9 license as a fish processor or primary fish buyer has complied with this section, the
10 Department of Revenue may issue that person a license to engage in the business of
11 fish processor or primary fish buyer.

12 (e) The commissioner may accept the assignment of a claim held by a person
13 against a fish processor or primary fish buyer under this section and may bring suit
14 upon the bond, cash deposit or other security on behalf of the assignor in the superior
15 court of the judicial district in which the work is done or in any judicial district in
16 which jurisdiction may be obtained. This action may not be construed to limit the
17 right of a person having a claim under this section against a fish processor or primary
18 fish buyer to personally bring suit upon the bond, cash deposit, or other security, in
19 which case a copy of the complaint shall be served by registered or certified mail
20 upon the commissioner at the time suit is filed. The commissioner shall maintain a
21 record, available for public inspection, of all suits commenced under this subsection.
22 The service shall constitute service on the surety, and the commissioner shall transmit
23 the complaint or a copy of it to the surety within 72 hours after it has been received.

24 (f) If the surety on the bond desires to cancel the bond, the surety may do so
25 by giving the commissioner written notice of intention to cancel. The cancellation is
26 effective 30 days after the notice is delivered to the commissioner.

27 (g) If a judgment is entered against the cash deposit, the commissioner, upon
28 receipt of a certified copy of a final judgment, shall pay the judgment from the
29 amount of the deposit.

30 Sec. 44.25.041. EXEMPTIONS FROM BONDING REQUIREMENT. (a)

31 A fish processor or primary fish buyer that does not purchase fish or hire employees

1 is exempt from the bonding requirements of AS 44.25.040.

2 (b) Restaurants, grocery stores, and established fish markets are exempt from
3 the bonding requirement of AS 44.25.040.

4 Sec. 44.25.042. SUSPENSION AND REVOCATION OF LICENSE. (a) If
5 a final judgment impairs the liability of the surety upon the bond or depletes the cash
6 deposits or other security so that there is not in effect the bond, undertaking, cash
7 deposit, or other security in the full amount prescribed in AS 44.25.040, the license
8 of the fish processor or primary fish buyer shall be suspended until the liability in the
9 required amount, unimpaired by unsatisfied judgment claims, has been furnished.

10 (b) If a bonding company cancels its bond of a fish processor or primary fish
11 buyer, the fish processor's or primary fish buyer's license shall be revoked. The fish
12 processor or primary fish buyer may again obtain a license by complying with the
13 requirements of AS 44.25.040.

14 (c) If a licensed fish processor or primary fish buyer fails to fulfill the
15 obligations as set out in AS 44.25.040, the license of the processor or buyer shall be
16 suspended for a period of time the commissioner determines is appropriate. After three
17 suspensions the license may be permanently revoked.

18 (d) Proceedings to suspend or revoke a license are governed by AS 44.62
19 (Administrative Procedure Act).

20 (e) If the commissioner determines that a fish processor or primary fish buyer
21 is acting in violation of AS 44.25.040, the commissioner shall give written notice
22 prohibiting further action by the person as a fish processor or primary fish buyer. The
23 prohibition continues until the person has submitted evidence acceptable to the
24 commissioner showing that the violation has been corrected.

25 (f) A person affected by an order issued under AS 44.25.040 and this section
26 may seek equitable relief preventing the commissioner from enforcing the order.

27 (g) In an action instituted in the superior court by the commissioner or a
28 representative of the commissioner, a person acting in the capacity of a fish processor
29 or primary fish buyer in violation of AS 44.25.040 may be enjoined from acting as
30 a fish processor or primary fish buyer.

31 Sec. 44.25.045. PENALTY FOR FAILURE TO OBTAIN BOND. A person

1 who is required to obtain the bond required by AS 44.25.040 and who fails to obtain
2 that bond is guilty of a class A misdemeanor. Each day a violation occurs constitutes
3 a separate offense.

4 Sec. 44.25.047. REGULATIONS. The commissioner may adopt regulations
5 to carry out the provisions of AS 44.25.040 - 44.25.048.

6 Sec. 44.25.048. DEFINITIONS FOR SURETY BOND PROGRAM. In
7 AS 44.25.040 - 44.25.048, unless the context otherwise requires,

8 (1) "commissioner" means the commissioner of revenue;

9 (2) "established fish market" means a market maintained in a
10 permanent structure exclusively for the sale of seafood to the public at retail;

11 (3) "fish" means any species of aquatic finfish, invertebrates and
12 amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle,
13 found in or introduced into the state, and includes fish eggs except fish eggs sold for
14 stock enhancement purposes;

15 (4) "fish processor" means a person engaging or attempting to engage
16 in a business for which a license is required under AS 43.75;

17 (5) "grocery store" means a store maintained for the sale of food
18 products exclusively to the public at retail;

19 (6) "primary fish buyer" means a person, other than a cooperative
20 corporation organized under AS 10.15, engaging or attempting to engage in the
21 business of originally purchasing or buying any fishery resource in intrastate,
22 interstate, or foreign commerce;

23 (7) "restaurant" includes a place maintained for the sale and
24 on-premise consumption of food, and a street vendor who sells food prepared for
25 immediate consumption.

26 * Sec. 4. AS 16.10.290, 16.10.292, 16.10.293, 16.10.294(a), (b), (c), and (d), and
27 16.10.295 are repealed.

28 * Sec. 5. TRANSITION. (a) Contracts, rights, liabilities, and obligations created by or
29 under a law repealed by this Order and in effect on June 30, 1993, remain in effect
30 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other
31 property of agencies of the state whose functions are transferred under this Order shall be

1 transferred to implement the provisions of this Order.

2 (b) Litigation, hearings, investigations, and other proceedings pending under a law
3 repealed by this Order, or in connection with functions transferred by this Order, continue in
4 effect and may be continued and completed notwithstanding a transfer, amendment, or repeal
5 provided for in this Order.

6 (c) Regulations relating to the surety bond program adopted by the Department of
7 Labor under authority of AS 16.10.275 before July 1, 1993, remain in effect until regulations
8 are adopted under AS 44.25.047 by the Department of Revenue and take effect. The
9 Department of Revenue may enforce the Department of Labor regulations until its own take
10 effect.

11 * Sec. 6. This Order takes effect July 1, 1993.

DATED: _____

Walter J. Hickel
Governor