

ALASKA LEGISLATURE

1960

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

HB

114

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 16, 1999

FURTHER REFERRALS:

Date of Committee Action: 3/23/99

The FINANCE Committee considered:

HB 114

HOUSE BILL NO. 114

REPEAL PROHIBITION ANTLERLESS MOOSE

"An Act repealing the prohibition against the taking of antlerless moose."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) fish: game 3/16/99

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Theriault</i>	Theriault	X			
<i>Greg Bunde</i>	Bunde	X			
<i>Alan Austinman</i>	Austinman			X	
<i>J. Davis</i>	J. DAVIS	X			
<i>Grussendorf</i>	Grussendorf			X	
<i>J. Davis</i>	J. DAVIS	X			
<i>William Williams</i>	Williams	X			
<i>Foster Mulder</i>	Foster Mulder	X			
<i>Foster Mulder</i>	Mulder	X			

CO CHAIR'S SIGNATURE

Gene Theriault *Foster Mulder*
 Theriault Mulder

FISCAL NOTE

Bill version: HB 114

(H) Publish Date: 3/16/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Repeal Prohibition Antlerless Moose BRU Boards of Fisheries and Game
 Component Boards Services
 Sponsor Rep. Masek
 Requester (H) RES Component Serial No. 482

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)
Travel	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
Contractual	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)
Supplies	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)
TOTAL	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

Estimate of any current year (FY99) cost: 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

ANALYSIS: (Attach a separate page if necessary)

A breakdown in cost savings is as follows: Personal Services--overtime for staff; Travel--per diem and board member honorarium; Contractual--printing, room rent, coffee; Supplies--office supplies.

Prepared by Laird Jones, Executive Director
 Division Boards Support Section, Div. of Administration
 Approved by Commissioner _____
 Agency Alaska Department of Fish and Game

Phone 465-6098
 Date 3/3/99
 Date 3.12.99

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FISCAL NOTE

Bill version: HB 114

(H) Publish Date: 3/16/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Repeal Prohibition Antlerless Moose BRU Boards of Fisheries and Game
 Component Boards Services
 Sponsor Rep. Masek
 Requester (H) RES Component Serial No. 482

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)
Travel	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
Contractual	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)
Supplies	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)
TOTAL	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

Estimate of any current year (FY99) cost: 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

ANALYSIS: (Attach a separate page if necessary)

A breakdown in cost savings is as follows: Personal Services--overtime for staff; Travel--per diem and board member honorarium; Contractual--printing, room rent, coffee; Supplies--office supplies.

Prepared by Laird Jones, Executive Director *Laird A. Jones*
 Division Boards Support Section, Div. of Administration
 Approved by Commissioner [Signature]
 Agency Alaska Department of Fish and Game

Phone 465-6098
 Date 3/3/99
 Date 3-12-99

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FISCAL NOTE

Bill version: HB 114

(H) Publish Date: 3/16/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Repeal Prohibition Antlerless Moose BRU Boards of Fisheries and Game
 Component Boards Services
 Sponsor Rep. Masek
 Requester (H) RES Component Serial No. 482

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)
Travel	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
Contractual	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)
Supplies	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)
TOTAL	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)	(8.9)

Estimate of any current year (FY99) cost: 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

ANALYSIS: (Attach a separate page if necessary)

A breakdown in cost savings is as follows: Personal Services--overtime for staff; Travel--per diem and board member honorarium; Contractual--printing, room rent, coffee; Supplies--office supplies.

Prepared by Laird Jones, Executive Director Phone 465-6098
 Division Boards Support Section, Div. of Administration Date 3/3/99
 Approved by Commissioner Date 3-12-99
 Agency Alaska Department of Fish and Game

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Alaska State Legislature



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Chair

Resources
Vice Chair

World Trade and
State & Federal Relations

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(907) 376-2679
Fax: 373-4745

During Session: (Jan.-May)
State Capitol
Juneau, AK 99801-1182
(907) 465-2679
Fax: 465-4822
1-800-505-2678

Representative Beverly Masek

Sponsor Statement for HB 114

Antlerless Moose Hunts

HB 114 will remove the statutory stipulation requiring Advisory Committees to approve antlerless hunts before the Board of Game can implement them. This will effectively reduce the time involved in implementing antlerless hunts, as well as save approximately ten to twenty thousand dollars.

Since 1975 the State Board of Game has been required to obtain the approval of a majority of the local advisory committees in proximity to the game management unit for which the hunt is proposed. To date, this requirement has caused the Department and the Board a great deal of time and some expense to pursue antlerless moose hunts. Originally this provision was instigated on behalf of Alaskans who felt cow moose hunts were wrong for a variety of reasons regardless of biological evidence. Since then the Department has managed to educate most Alaskans about the benefits of antlerless hunts in relation to overall population dynamics and quality of habitat. Because of that effort antlerless hunts are rarely opposed today.

Antlerless moose hunts have rarely been opposed under the current system and Advisory Committees still have considerable clout within the Board of Game process. If a majority of the Advisory Committees wished to stop an antlerless hunt, experience shows that the Board of Game will go along with them 99% of time.

HB 114 will benefit the State and the Board of Game by streamlining the regulatory process providing a cost savings to the state in time and money.

Article 06. MISCELLANEOUS PROVISIONS

Sec. 16.05.780. Taking of antlerless moose prohibited.

(a) The taking of antlerless moose in any game management unit or subunit or a portion of a unit or subunit is prohibited except that antlerless moose may be taken only under regulations adopted under (b) of this section after

(1) the department recommends the season be opened in that year, based on biological evidence, and

(2) a majority of active local advisory committees for that unit or subunit have recommended an opening for that year, after each has taken a vote and a majority of the members of those committees have voted in the affirmative.

(b) Pursuant to (a) of this section the board, in its regularly scheduled annual game board meeting, may adopt regulations for the taking of antlerless moose in any game management unit or subunit in any year.

History -

(Sec. 1 ch 113 SLA 1975)

Decisions -

Quoted in *Bobby v. Alaska*, 718 F. Supp. 764 (D. Alaska 1989).

HB

114

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/13/00

FURTHER:

REPORTED OUT OF
SFC 4/15/00

DATE TURNED
IN TO OFFICE:

15 April 00

Finance Committee considered

HOUSE BILL NO. 114

"An Act repealing the prohibition against the taking of antlerless moose."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Linda Green</i>	<input checked="" type="checkbox"/>	<i>Self & ...</i>	<input checked="" type="checkbox"/>		
<i>Robert D. Leman</i>	<input checked="" type="checkbox"/>	<i>W. ...</i>	<input checked="" type="checkbox"/>		
<i>Ernie ...</i>	<input checked="" type="checkbox"/>	<i>Al ...</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
F&G-Boards	4/12/00		(2.9)
F&G-Wildlife	4/12/00		(4.2)

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 3
Bill Version: SCS HB114 (RES)
(S) Publish Date: 4-13-00

Revision Date (Note if correction) 04/12/00 Dept. Affected: Fish and Game
Title Repeal Prohibition Antlerless Moose BRU Boards of Fisheries and Game
Component Boards Services
Sponsor Rep. Masek
Requester (S) RES Component Serial No. 0482

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)	(0.3)
Travel						
Contractual	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)
Supplies	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)
TOTAL	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)	(2.9)

Estimate of any current year (FY00) cost: 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

ANALYSIS: (Attach a separate page if necessary)

Approximately half the spending currently devoted to antlerless moose proposals would be saved under this bill, as follows: Personal Services -- overtime for staff; Contractual -- printing, postage, room rent; Supplies -- office supplies.

Prepared by Margaret Edens, Acting Executive Director
Division Boards Support Section, Div. of Administration
Approved by Commissioner: Frank Rue
Agency Alaska Department of Fish and Game

Phone 465-6098
Date 04/12/00
Date 4/12/00

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FISCAL NOTE

REPORTED OUT OF
SFC 4/15/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 2
Bill Version: SCS HB114 (RES)
(S) Publish Date: 4-13-00

Revision Date (Note if correction) 04/12/00 Dept. Affected: Fish and Game
Title Repeal Prohibition Antlerless Moose BRU Wildlife Conservation
Component Wildlife Conservation
Sponsor Rep. Masek
Requester (S) RES Component Serial No. 0473

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)
TOTAL	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)	(4.2)

Estimate of any current year (FY00) cost: 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

ANALYSIS: (Attach a separate page if necessary)

Under current law, annual consideration of antlerless moose regulations requires Wildlife Conservation staff biologists to annually travel to and attend Board meetings held in other regions of the state. Under the committee substitute, such travel would no longer be necessary.

Prepared by Matt Robus, Deputy Director Phone 465-4192
 Division Division of Wildlife Conservation, ADF&G Date 04/12/00
 Approved by Commissioner: Frank Rue Date 4/12/00
 Agency Alaska Department of Fish and Game

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SENATE FINANCE COMMITTEE

SIGN-IN

HB 114-REPEAL PROHIBITION ANTLERLESS MOOSE

NAME: Matt Robus Subject/Bill No: HB 114
Co./Dept./Title: Fish & Game Phone: 465-4192
Address: POB 25526 Junction Zip: 99802

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

Committees:

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Chair

Resources
Vice Chair

World Trade and
State & Federal Relations

Alaska State Legislature



Representative Beverly Masek

During Interim: (June-Dec.)
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Wasilla, AK 99654
(907) 376-2679
Fax: 373-4745

During Session: (Jan.-May)
State Capitol
Juneau, AK 99801-1182
(907) 465-2679
Fax: 465-4822
1-800-505-2678

Sponsor Statement for HB 114

Antlerless Moose Hunts

HB 114 will change the statutory stipulation requiring Advisory Committees to approve antlerless hunts before the Board of Game can implement them. This will effectively reduce the time involved in implementing antlerless hunts, as well as save approximately ten to twenty thousand dollars.

Since 1975 the State Board of Game has been required to obtain the approval of a majority of the local advisory committees in proximity to the game management unit for which the hunt is proposed. To date, this requirement has caused the Department and the Board a great deal of time and some expense to pursue antlerless moose hunts. Originally this provision was instigated on behalf of Alaskans who felt cow moose hunts were wrong for a variety of reasons regardless of biological evidence. Since then the Department has managed to educate most Alaskans about the benefits of antlerless hunts in relation to overall population dynamics and quality of habitat. Because of that effort antlerless hunts are rarely opposed today.

The Senate Resources Committee substitute still allows for AC participation, but also fixes the problems the Board and the Department had with the approval process. Now the Board may proceed to act unless a majority of the AC's with jurisdiction over the area disapprove. It also puts the antlerless regulations on the same two year cycle the Board now uses saving the State time and money.

HB 114 will benefit the State and the Board of Game by streamlining the regulatory process providing a cost savings to the state in time and money.

HB

116

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 11, 2000

FURTHER REFERRALS:

Date of Committee Action: 3/27/00

The FINANCE Committee considered:

HB 116

HOUSE BILL NO. 116

BOARD OF AGRICULTURE AND CONSERVATION

"An Act relating to the Board of Agriculture and Conservation, to the agricultural revolving loan fund, to the disposal of state agricultural land, and to the Alaska Natural Resource Conservation and Development Board; and providing for an effective date."

recommends it be replaced with the following committee substitute

CS HR 116 (FIN)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) DNR 2-11-00

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Theriault</i> Theriault	X			
<i>Gene Mulder</i> Mulder			X	
<i>John N. G. Jones</i> Jones			X	
<i>Ben Crussendorf</i> Crussendorf			X	
<i>Paul E. Moses</i> Moses			X	
<i>John Davis</i> DAVIS			X	
<i>W.K. Williams</i> Williams			X	

CHAIR'S SIGNATURE

Gene Theriault *Gene Mulder*

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date/Time: 07-Feb-00 Dept Affected: Natural Resources
 Title: Board of Agriculture and Conservation BRU: Agricultural Develop., ARLF Prog Admin.
 Component: Agricultural Development
 Sponsor: Rep. James ARLF Prog Admin.
 Requestor: (H)RES Component No 455. and 2235

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL	9.0	9.0	9.0	9.0	9.0	
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.0	9.0	9.0	9.0	9.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	
CHANGE IN REVENUES (fund code)	(22.1)	(29.8)	(37.0)	(43.6)	(49.4)	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1021 ARLF	9.0	9.0	9.0	9.0	9.0	
TOTAL	9.0	9.0	9.0	9.0	9.0	

Estimate of any current year (FY2000) cost: \$ none

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

FY01 and future costs are difficult to quantify since proposed legislation creates a new level of government.

Currently the Agricultural Revolving Loan Fund Board meeting expenses are approximately \$9.0 per year for travel related meeting expenses for 8 meetings a year, the minimum set by statute. These costs can be higher depending on where a board member lives, the number of meetings held, or if all seven seats are filled during the year. There are no costs to the Division of Agriculture for the creamery corporation meetings. The new board of agriculture, it would be reasonable to assume, would need to meet initially at least twice as many times or more (16) since the proposed board has an expanded mission and operates as independent unit. We estimate at least \$9.0 increase in meeting expenses. This \$9.0 is reflected in the fiscal note.

Prepared by: Robert Wells *[Signature]* Phone: 307-745-7200
 Division: Division of Agriculture Date: 07-Feb-00
 Approved by Commissioner: John Shively *[Signature]* Date: 2-7-00
 Agency: Natural Resources

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COMMITTEE COPY

Until it is clarified what additional responsibilities (i.e. administer land sale contracts) we have to assume new administrative costs. It is unknown how many exempt staff the board may hire. Currently the Division of Agriculture - excluding the North Latitude Plant Materials Center has 16 full time positions and 2 part time positions. The new legislation allows for hiring of staff by a director appointed by the board. We do not know what staff this might include or the associated costs. We do not know if this staff would replace current staff or be an addition. Also, some Division of Mining, Land and Water functions are pulled into the proposed new organization.

Changes in Revenue:

Based on loans issued in FY99, each percent decline in the interest rate of the Agricultural Revolving Loan Fund loans will result in a corresponding decline in interest revenue that averages approximately \$20.0 annually over a five year period. The revenue projections above reflect an estimated 2% reduction in interest.

Under Sec. 03.10.050 (e), the department has the authority to establish credits for persons who have a loan from the Agricultural Revolving Loan Fund and maintain good financial standing. The credits may be applied against no more than 2 percentage points a year of the interest due on Agricultural Revolving Loan Fund loans. (If a loan to a good borrower was at an interest rate of 5 percent, a 2 percent credit would set the annual interest rate for the year at 3 percent).

Interest increase and (losses) for various changes in the interest rate:					
RATE	FY2001	FY2002	FY2003	FY2004	FY2005
10%	22,078.32	29,819.24	37,016.28	43,594.98	49,383.04
9%	11,039.16	14,909.62	18,508.14	21,797.49	24,691.52
8%	0.00	0.00	0.00	0.00	0.00
7%	(11,039.16)	(14,909.62)	(18,508.14)	(21,797.49)	(24,691.52)
6%	(22,078.32)	(29,819.24)	(37,016.28)	(43,594.98)	(49,383.04)
5%	(33,117.48)	(44,728.86)	(55,524.42)	(65,392.47)	(74,074.56)
4%	(44,156.64)	(59,638.48)	(74,032.56)	(87,189.96)	(98,766.08)
3%	(55,195.80)	(74,548.10)	(92,540.70)	(108,987.45)	(123,457.60)

PLEASE NOTE: These projections are based on FY99 actuals and reflect estimated increases and decreases in interest revenues.

1-LS0407Q
Cook
3/23/00

Adopted
3/27/00

CS FOR HOUSE BILL NO. 116(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES JAMES, Harris

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Agriculture and Conservation, to the director
2 of agriculture, to the agricultural revolving loan fund and to loans from the fund,
3 to the disposal of interests in state agricultural land; and providing for an
4 effective date."

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

6 * Section 1. AS 03 is amended by adding new sections to read:

7 **Chapter 09. Board of Agriculture and Conservation.**

8 **Sec. 03.09.010. Board of Agriculture and Conservation established. (a)**

9 There is established in the department the Board of Agriculture and Conservation. The
10 board consists of the commissioner and seven members appointed by the governor.

11 Appointed members shall have the following qualifications:

- 12 (1) one member shall have general business or financial experience;
13 (2) one member shall be a member of a statewide agriculture promotion
14 organization;

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(3) one member shall be a member of a soil and water conservation district established under AS 41.10.130(a) who is also engaged in commercial production agriculture;

(4) four members shall be engaged in commercial production agriculture, each shall represent a different agriculture enterprise from the others, such as livestock production, dairy, vegetable production, grain production, horticultural production, and greenhouse and hydroponic production.

(b) Appointed members of the board serve staggered three-year terms and until a successor is appointed. An appointed member may be removed from office by the governor if the governor first provides a written statement of the reasons for removal to the member and makes the statement available to the public. If a vacancy occurs, the governor shall immediately appoint a member for the unexpired portion of the term.

(c) Appointed members of the board receive no compensation, but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

(d) While serving on the board and for one year after leaving that office, a board member, or an immediate family member of the board member, may not obtain a lease, permit, installment contract, or loan or purchase land under AS 03.10 or under AS 38.05, or have an existing lease, permit, installment contract, or loan under AS 03.10 or under AS 38.05 modified or restructured. Notwithstanding AS 39.52.150(a), a person may be appointed to the board even though, at the time of appointment, that person, or an immediate family member, has a lease, permit, installment contract, or loan under AS 03.10 or AS 38.05. However, that person may not take or withhold any official action that affects the lease, permit, installment contract, or loan. If a person with a lease, permit, installment contract, or loan under AS 03.10 or AS 38.05 is appointed to the board, failure by that person to abide by all the terms and conditions of the lease, permit, installment contract, or loan may be the basis for removal under (b) of this section. For purposes of this subsection, "immediate family member" and "official action" have the meanings given in AS 39.52.960.

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1 (e) The board shall elect a member to serve as chair and a member to serve
2 as vice-chair for one-year terms. A member may be reelected to serve additional terms
3 as chair or vice-chair.

4 **Sec. 03.09.020. Director of agriculture and staff.** (a) The director of the
5 division of agriculture of the department shall serve as the director of the Board of
6 Agriculture and Conservation. The director may employ staff and, as directed by the
7 board, is responsible for the daily operations of the agricultural revolving loan fund
8 (AS 03.10.040).

9 (b) The director of agriculture shall be appointed to the partially exempt
10 service by the commissioner from a list of two or more candidates submitted by the
11 board. The commissioner may reject all candidates, in which case the board shall
12 submit a new list. The director may be removed by the commissioner at any time, and
13 the office shall remain vacant until a new director is appointed under this subsection.

14 **Sec. 03.09.030. Quorum.** Five members of the Board of Agriculture and
15 Conservation constitute a quorum for the transaction of business or the exercise of a
16 power or function at a meeting of the board.

17 **Sec. 03.09.040. Regulations.** (a) The Board of Agriculture and Conservation
18 may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out its
19 duties.

20 (b) The board may, by regulation, classify loan and marketing information and
21 make some classes of loan or marketing information confidential.

22 **Sec. 03.09.050. Agricultural land.** The Board of Agriculture and
23 Conservation may recommend to the commissioner that land in the land disposal bank
24 established under AS 38.04.020 be classified as suitable for agriculture. The board
25 may identify state land for agricultural disposal and request the commissioner to
26 provide for the survey and disposal of the land.

27 * Sec. 2. AS 03.10.020(a) is amended to read:

28 (a) The Board of Agriculture and Conservation (AS 03.09.010)
29 [DEPARTMENT] may

30 (1) make a loan to

31 (A) an individual resident farmer, homesteader, or a partnership

1 or corporation composed of farmers and homesteaders for

2 (i) clearing land for agricultural purposes;

3 (ii) development of farms;

4 (iii) storage and processing of farm produce; or

5 (iv) the purchase of livestock or machinery;

6 (B) an individual state resident, or a partnership or corporation

7 for

8 (i) storage and processing plants for agricultural
9 products;

10 (ii) the commercial production or processing of
11 horticultural products in the state;

12 (iii) the commercial production or processing of animal
13 feed in the state; or

14 (iv) the raising or care of animals in the state for the
15 purpose of marketing their fur;

16 (2) designate agents and delegate its powers to them as necessary;

17 (3) adopt regulations necessary to carry out its functions, including
18 regulations to establish reasonable fees for services provided and charges for collecting
19 the fees;

20 (4) establish amortization plans for repayment of loans, which may
21 include delayed payments of principal and interest for not to exceed five years;

22 (5) enter into agreements with private lending institutions, other state
23 agencies or agencies of the federal government, to carry out the purposes of this
24 chapter;

25 (6) collect the fees and collection charges established under this
26 subsection.

27 * Sec. 3. AS 03.10.030(a) is amended to read:

28 (a) The farm development, chattel, or irrigation loan made under this chapter

29 (1) may not exceed a term of 30 years, except that a chattel loan may
30 not exceed a term of seven years;

31 (2) may not, when added to the outstanding balance of other loans

1 made under this chapter, exceed a total outstanding balance of \$1,000,000;

2 (3) shall be secured by a real estate or chattel mortgage of any priority,
3 except that the portion of a loan that exceeds \$500,000, when added to prior
4 indebtedness that is secured by the same property, must be secured by a first mortgage;

5 (4) shall bear interest at a fixed rate comparable to that charged by
6 other agricultural [THAT MAY NOT BE LESS THAN EIGHT PERCENT OR
7 MORE THAN THE COMMERCIAL RATE, UNLESS THE COMMERCIAL RATE
8 IS EIGHT PERCENT OR LESS; IN THIS PARAGRAPH, "COMMERCIAL RATE"
9 MEANS THE PREVAILING RATE OF INTEREST AT PRIVATE] lending
10 institutions in the state for loans similar to those referred to in this subsection.

11 * Sec. 4. AS 03.10.030(c) is amended to read:

12 (c) A short-term [SHORT TERM] loan, to be amortized within one year, not
13 to exceed \$350,000 to any one borrower may be made for operating purposes, except
14 that a loan made under this subsection may not exceed \$200,000 unless the loan is
15 made to a borrower in a farm disaster area declared under AS 03.10.058. The loan
16 shall bear interest at a fixed rate comparable to that charged by other
17 agricultural lending institutions in the state for loans similar to those referred to
18 in this subsection. An applicant for a short-term [SHORT TERM] loan may be
19 required to purchase insurance through the Federal Crop Insurance Act (7 U.S.C. 1501
20 - 1520) as a condition of the loan. The term of a loan made under this subsection may
21 be extended for up to three years by the Board of Agriculture and Conservation
22 [AGRICULTURAL REVOLVING LOAN FUND BOARD], in the discretion of the
23 board, upon application by the borrower.

24 * Sec. 5. AS 03.10.030(e) is amended to read:

25 (e) An installment payment is delinquent unless it is [MAILED BY THE
26 BORROWER ON OR BEFORE THE 30TH DAY AFTER THE DATE SPECIFIED
27 FOR PAYMENT IN THE LOAN AGREEMENT OR UNLESS IT IS] received by the
28 Board of Agriculture and Conservation or the director of the board
29 [DEPARTMENT] on or before the 30th day after the date specified for payment in the
30 loan agreement. If an installment payment is delinquent, the director of the board
31 [DIVISION OF AGRICULTURE OF THE DEPARTMENT] may assess a delinquency

1 penalty. [THE DELINQUENCY PENALTY SHALL BE AN AMOUNT EQUAL TO
2 SEVEN PERCENT OF THE DELINQUENT PAYMENT, BUT THE COMBINED
3 DELINQUENCY PENALTY AND LOAN INTEREST MAY NOT EXCEED 15
4 PERCENT.]

5 * Sec. 6. AS 03.10.030(f) is amended to read:

6 (f) A farm product processing loan may not exceed \$250,000. A mortgage
7 that secures a farm product processing loan may be of any priority if the total
8 indebtedness on the real estate, including the secured farm product processing loan,
9 does not exceed \$250,000. A farm product processing loan that, if made, would raise
10 the existing indebtedness on the real estate securing the loan above \$250,000, or a
11 farm product processing loan on real estate that has a prior indebtedness of \$250,000
12 or more, may be made only if all prior mortgagees agree to subordinate their
13 mortgages to that of the state for the amount of the farm product processing loan that
14 exceeds the \$250,000 indebtedness limit on the real estate. A farm product processing
15 loan may not exceed a term of 30 years or bear interest at a rate that is less than a
16 fixed rate comparable to that charged by other agricultural lending institutions
17 in the state for similar loans, [EIGHT PERCENT A YEAR] and shall be secured by
18 a real estate or chattel mortgage or both.

19 * Sec. 7. AS 03.10.030(g) is amended to read:

20 (g) A loan for clearing land may not
21 (1) exceed \$250,000;
22 (2) bear interest at a rate that is less than a fixed rate comparable to
23 that charged by other agricultural lending institutions in the state for similar
24 loans [EIGHT PERCENT];
25 (3) have a term in excess of 20 years; or
26 (4) be made for clearing land other than land that has been classified
27 by the United States Department of Agriculture, Natural Resource [SOIL]
28 Conservation Service, under the Land Capability Classification System as having
29 agricultural potential for the production of annual crops or [,] hay, or for pasture.

30 * Sec. 8. AS 03.10.030(h) is amended to read:

31 (h) The Board of Agriculture and Conservation [COMMISSIONER] shall

1 adopt regulations to establish other terms for loans made under this chapter, consistent
2 with the provisions of this section, and may establish interest rates for loans under
3 (a)(4) of this section that

- 4 (1) encourage agricultural development;
- 5 (2) do not subsidize nonviable agricultural enterprises; and
- 6 (3) do not discriminate against viable existing agricultural enterprises.

7 * Sec. 9. AS 03.10.033(a) is amended to read:

8 (a) To increase the return to the state, the Board of Agriculture and
9 Conservation [AGRICULTURAL REVOLVING LOAN FUND BOARD] may
10 restructure loans (1) in existence on January 1, 1987, made by the former
11 Agricultural Revolving Loan Fund Board [BOARD] or by the former Alaska
12 Agricultural Action Council based upon guidelines approved by the Board of
13 Agriculture and Conservation; (2) of a borrower in an area that has been
14 declared a farm disaster area under AS 03.10.058; or (3) of a borrower who has
15 experienced an agricultural disaster based upon regulations adopted by the
16 Board of Agriculture and Conservation. Notwithstanding any other provision of
17 law that relates to loan terms, the [BOARD. THE] restructuring may only include
18 reduction of interest to a fixed rate not less than five percent a year [TO RATES
19 BELOW THOSE SPECIFIED BY AS 03.10.030], an extension of the term of the loan,
20 and an improvement to the security interest of the state. It may not reduce the amount
21 of principal and interest owed before the loan is restructured.

22 * Sec. 10. AS 03.10.033(c) is amended to read:

23 (c) Notwithstanding any other provision of this section, the Board of
24 Agriculture and Conservation [AGRICULTURAL REVOLVING LOAN FUND
25 BOARD] may approve an application for restructuring under this section only upon
26 (1) the applicant's written release of the state, including [THE
27 ALASKA AGRICULTURE ACTION COUNCIL, THE AGRICULTURAL
28 REVOLVING LOAN FUND, AND] the University of Alaska, from all potential
29 liability for actions and omissions occurring before the date of restructuring that relate
30 in any way to a state farm project, land sale, land sale relinquishment, farm loan, or
31 loan application or loan modification application, whether granted or denied by the

1 state; and

2 (2) assignment by the applicant to the board of the proceeds from the
3 federal government under 7 U.S.C. 1442 (Conservation Reserve Program) and P.L. 88-
4 26 (Feed Grain Act of 1963), as amended.

5 * Sec. 11. AS 03.10.035(a) is amended to read:

6 (a) A borrower may not use farm land for a nonfarm [NON-FARM] use or
7 sell, lease, or otherwise dispose of farm land if that land is encumbered by a mortgage
8 given to secure the payment of a [FARM DEVELOPMENT, CHATTEL, OR
9 IRRIGATION SYSTEM] loan under this chapter unless the borrower either

10 (1) pays the outstanding balance of the loan in a lump sum or under
11 other terms agreed to by the Board of Agriculture and Conservation
12 [COMMISSIONER] that accelerate payment of the loan; or

13 (2) pays the outstanding principal balance for the remaining term of the
14 loan at the prevailing rate of interest that is charged by commercial banks in the state
15 during the calendar quarter in which the board [DEPARTMENT] receives notice of
16 the change of use, sale, lease, or other disposal of the farm land.

17 * Sec. 12. AS 03.10.040(b) is amended to read:

18 (b) Money in the fund may be used by the legislature to make appropriations
19 for costs of administering this chapter and for operations of the Board of
20 Agriculture and Conservation.

21 * Sec. 13. AS 03.10.050(a) is amended to read:

22 (a) The Board of Agriculture and Conservation [COMMISSIONER] shall
23 administer the agricultural revolving loan fund [IN CONJUNCTION WITH THE
24 AGRICULTURAL REVOLVING LOAN FUND BOARD]. A [NO] loan [IN EXCESS
25 OF \$25,000] may not be made [BY THE COMMISSIONER] without the approval of
26 a majority of the board, except that emergency loans based upon regulations
27 adopted by the board and not to exceed \$50,000 may be made upon the approval,
28 by majority vote, of a committee composed of the chair of the board, another
29 board member, and the director of the board.

30 * Sec. 14. AS 03.10.050(c) is amended to read:

31 (c) A meeting of the [AGRICULTURAL REVOLVING LOAN FUND] board

1 to act on applications for loans is exempt from the public meeting requirements of
2 AS 44.62.310.

3 * Sec. 15. AS 03.10.050(e) is amended to read:

4 (e) To encourage the prompt payment of loans, the board [DEPARTMENT]
5 may establish a program of credits for persons who have a loan from the agricultural
6 revolving loan fund and maintain good financial standing. The credits may be applied
7 against no more than two percentage points a year of the interest due on agricultural
8 revolving loan fund loans.

9 * Sec. 16. AS 03.10.050(g) is amended to read:

10 (g) The board [DIRECTOR OF AGRICULTURE] may dispose of property
11 acquired by the agricultural revolving loan fund [AGRICULTURAL REVOLVING
12 LOAN FUND BOARD OR BY THE COMMISSIONER] through foreclosure, default,
13 or other action arising out of agricultural loans or the sale of agricultural land.
14 Disposals shall be conducted under regulations approved by the commissioner. The
15 regulations must ensure that the property is disposed of so as to maximize the return
16 to the state and must require that the parcels of land that are composed primarily of
17 cropland soils be restricted to agricultural uses and disposed of only to persons who
18 are residents of the state.

19 * Sec. 17. AS 38.04.020(g) is amended to read:

20 (g) After July 1 of each year, the commissioner shall direct the expenditure of
21 money appropriated for the disposal of land in response to requests made under (e) and
22 (f) of this section for the following:

23 (1) land [LAND] designated as suitable for homestead disposal shall
24 be classified and surveyed under this chapter and AS 38.05 and made available for
25 staking and lease under AS 38.09; [.]

26 (2) land [LAND] designated as suitable for subdivision and homesite
27 disposal shall be surveyed, subdivided, classified, and disposed of under this chapter,
28 AS 38.05, and AS 38.08; [.]

29 (3) land [LAND] designated [AGRICULTURAL,] commercial,
30 industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057;

31 (4) land designated agricultural shall be disposed of under

1 AS 38.05.055 - 38.05.065, except the Board of Agriculture and Conservation
2 (AS 03.09.010) shall receive notice of each proposed disposal and be given an
3 opportunity to comment before the final disposal decision is made.

4 * Sec. 18. AS 38.04.030 is amended to read:

5 **Sec. 38.04.030. Land availability programs.** Programs that may be used by
6 the director to make the state's land surface available for private use under
7 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
8 estate, including conveyance of agricultural use rights; leasing; open-to-entry;
9 homesiting; homesteading; permitting for construction and occupation of cabins in
10 isolated locations on land retained in state ownership; and other methods as provided
11 by law. However, agricultural use rights may be conveyed only after consulting
12 with the Board of Agriculture and Conservation.

13 * Sec. 19. AS 38.05.020(b)(7) is amended to read:

14 (7) after consulting with the Board of Agriculture and Conservation
15 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
16 of a contract for the sale of agricultural land if

17 (A) the land is inaccessible by road; or

18 (B) transportation, marketing, and development costs render the
19 required development uneconomic;

20 * Sec. 20. AS 38.05.057(c) is amended to read:

21 (c) The commissioner, after consulting with the Board of Agriculture and
22 Conservation (AS 03.09.010), may adopt regulations under the Administrative
23 Procedure Act (AS 44.62) that [WHICH] specify qualifications for lottery participants
24 different from those specified in (b) of this section if

25 (1) an interest in land limited to agricultural purposes is to be sold
26 under (a) of this section;

27 (2) the sale is a part of a program to develop agricultural land as a
28 renewable resource of the state; and

29 (3) the regulations include residency, skill, experience, and financial
30 requirements necessary to qualify persons who are competent and financially able to
31 develop the land as a successful agricultural enterprise.

1 * Sec. 21. AS 38.05.059 is amended to read:

2 **Sec. 38.05.059. Sale of agricultural land.** The commissioner, after
3 consulting with the Board of Agriculture and Conservation (AS 03.09.010), may
4 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
5 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
6 subdivision requirements and municipal ordinances.

7 * Sec. 22. AS 38.05.065(h) is amended to read:

8 (h) The commissioner, after consulting with the Board of Agriculture and
9 Conservation (AS 03.09.010),

10 (1) shall provide that, notwithstanding (a) and (b) of this section, in a
11 contract for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses,
12 the interest rate to be charged on installment payments may not exceed 9.5 percent;
13 and

14 (2) may declare a moratorium of up to five years on payments on land
15 sold under this section for land classified under AS 38.05.020(b)(6) for agricultural
16 uses if

17 (A) the commissioner determines that the moratorium is in the
18 best interest of the state;

19 (B) the commissioner certifies and the contract purchaser agrees
20 to perform farm development, crop production, and harvesting, not including
21 land clearing or related activity, requiring the expenditure of amounts
22 equivalent to the payments that would otherwise be made during the
23 moratorium;

24 (C) the sale of the agricultural land takes place after July 1,
25 1979; and

26 (D) the contract purchaser is in compliance with the
27 development plan specified in the purchase contract at the time the purchaser
28 applies for a moratorium under this subsection and remains in compliance with
29 the development plan during the moratorium; for the payments subject to the
30 moratorium declared under this paragraph, interest payments are subject to the
31 moratorium but interest continues to accrue during the moratorium.

1 * Sec. 23. AS 38.05.069(a) is amended to read:

2 (a) After consulting with the Board of Agriculture and Conservation
3 (AS 03.09.010), on [ON] a determination that the highest and best use of unoccupied
4 land is for agricultural purposes and that it is in the best interests of the state to sell
5 or lease the land, the commissioner shall grant to an Alaska [ALASKAN] resident
6 owning and using or leasing and using land for agricultural purposes a first option at
7 the auction to purchase or lease the unoccupied land situated adjacent to land presently
8 held by the Alaska [ALASKAN] resident for the amount of the high bid received at
9 public auction. If more than one Alaska [ALASKAN] resident qualifies for a first
10 option under this section, eligibility for the first option shall be determined by lot and
11 the option must be exercised on the conclusion of the public auction. A parcel of
12 agricultural land sold under this section may not be less than 20 acres, and a parcel of
13 agricultural land that is acquired by exercise of the option granted in this subsection
14 may not exceed 320 acres. Agricultural land that is acquired under this section must
15 be used for agricultural purposes as required by law.

16 * Sec. 24. AS 38.05.321(e) is amended to read:

17 (e) A landowner may subdivide land classified for agricultural use and for
18 which the landowner obtained a patent under a homestead entry permit issued under
19 AS 38.09 so long as the resulting parcels are not in violation of the minimum parcel
20 size set out in (a) of this section. A landowner may subdivide other land classified for
21 agricultural use as authorized under (d)(3)(C) of this section. If the subdivision
22 involves land classified for agricultural use and for which the landowner obtained a
23 patent under a homestead entry permit issued under AS 38.09, or if the subdivision of
24 land authorized under (d)(3)(C) of this section results only in parcels of 640 acres or
25 more, the landowner may subdivide without payment as required by this subsection.
26 If subdivision of land authorized by (d)(3)(C) of this section would result in one or
27 more parcels of less than 640 acres, the landowner may subdivide only if the
28 landowner first tenders payment to the department for the right to construct housing
29 in each subdivided parcel of less than 640 acres. Payments collected under this
30 subsection shall be separately accounted for and may be appropriated to the
31 agricultural revolving loan fund (AS 03.10.040). For purposes of this subsection,

1 the value of the right to construct housing in a subdivided parcel

2 (1) is \$4,000 for the parcel, subject to adjustment under (h) of this
3 section; or

4 (2) shall be determined by an appraisal made by an appraiser under
5 contract to the landowner owning the parcel, and the appraisal must include the value,
6 determined as of the date of subdivision, of the right to construct housing by the
7 landowner under (d)(3) of this section.

8 * Sec. 25. AS 38.05.035(b) is amended to read:

9 (b) The director may

10 (1) delegate the administrative duties, functions or powers imposed
11 upon the director to a responsible employee in the division;

12 (2) grant preference rights for the lease or purchase of state land
13 without competitive bid in order to correct errors or omissions of a state or federal
14 administrative agency when inequitable detriment would otherwise result to a diligent
15 claimant or applicant due to situations over which the claimant or applicant had no
16 control; the exercise of this discretionary power operates only to divest the state of its
17 title to or interests in land and may be exercised only

18 (A) with the express approval of the commissioner; and

19 (B) if the application for the preference right is filed with the
20 director within three years from

21 (i) the occurrence of the error or omission;

22 (ii) the date of acquisition by the state of the land; or

23 (iii) the date of a court decision or settlement nullifying
24 a disposal of state land;

25 (3) grant a preference right to a claimant who shows bona fide
26 improvement of state land or of federal land subsequently acquired by the state and
27 who has in good faith sought to obtain title to the land but who, through error or
28 omission of others occurring within the three years before (A) the application for the
29 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
30 a court decision or settlement nullifying a disposal of state land, has been denied title
31 to it; upon a showing satisfactory to the commissioner, the claimant may lease or

1 purchase the land at the price set on the date of original entry on the land or, if a price
2 was not set at that time at a price determined by the director to fairly represent the
3 value of unimproved land at the time the claim was established, but in no event less
4 than the cost of administration including survey; the error or omission of a predecessor
5 in interest or an agent, administrator, or executor which has clearly prejudiced the
6 claimant may be the basis for granting a preference right;

7 (4) sell land by lottery for less than the appraised value when, in the
8 judgment of the director, past scarcity of land suitable for private ownership in any
9 particular area has resulted in unrealistic land values;

10 (5) when the director determines it is in the best interest of the state
11 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
12 land, by direct negotiation to that person who presently uses and who used and made
13 improvements to that land before January 3, 1959, or to the heirs or devisees of the
14 person; the amount paid for the land shall be its fair market value on the date that the
15 person first entered the land, as determined by the director; a parcel of land disposed
16 of under this paragraph shall be of a size consistent with the person's prior use, but
17 may not exceed five acres;

18 (6) after consulting with the Board of Agriculture and Conservation
19 (AS 03.09.010), dispose of an interest in land limited to use for agricultural purposes
20 by lottery;

21 (7) convey to an adjoining landowner for its fair market value a
22 remnant of land that the director considers unmanageable or a parcel of land created
23 by a highway right-of-way alignment or realignment, or a parcel created by the
24 vacation of a state-owned right-of-way if

25 (A) the director determines that it is in the best interests of the
26 state;

27 (B) the parcel does not exceed the minimum lot size under an
28 applicable zoning code; and

29 (C) the director and the platting authority having land use
30 planning jurisdiction agree that conveyance of the parcel to the adjoining
31 landowner will result in boundaries that are convenient for the use of the land

1 by the landowner and compatible with municipal land use plans;

2 (8) for good cause extend for up to 90 days the time for rental or
3 installment payments by a lessee or purchaser of state land under this chapter if
4 reasonable penalties and interest set by the director are paid;

5 (9) quitclaim land or an interest in land to the federal government on
6 a determination that the land or the interest in land was wrongfully or erroneously
7 conveyed by the federal government to the state;

8 (10) negotiate the sale or lease of state land at fair market value to a
9 person who acquired by contract, purchase, or lease rights to improvements on the land
10 from another state agency or who leased the land from another state agency [;

11 (11) REPEALED].

12 * Sec. 26. AS 38.07.010(b) is amended to read:

13 (b) The land that is [THUS] cleared or drained under (a) of this section shall
14 be put up for competitive lease in lots of not less than 320 acres each. Lease
15 payments shall be separately accounted for and may be appropriated to the
16 agricultural revolving loan fund (AS 03.10.040).

17 * Sec. 27. AS 38.09.010(a) is amended to read:

18 (a) The commissioner shall designate and make available for homestead entry
19 state land, including, after consulting with the Board of Agriculture and
20 Conservation (AS 03.09.010), land classified for agricultural use. State land made
21 available for homestead entry under this chapter shall be distributed throughout the
22 state.

23 * Sec. 28. AS 39.50.200(b) is amended by adding a new paragraph to read:

24 (56) Board of Agriculture and Conservation (AS 03.09.010).

25 * Sec. 29. AS 03.10.050(b), 03.10.050(d), 03.10.052; and AS 39.50.200(b)(1) are repealed.

26 * Sec. 30. The uncodified law of the State of Alaska is amended by adding a new section
27 to read:

28 TRANSITION. (a) Notwithstanding AS 03.09.010(b), enacted in sec. 1 of this Act,
29 two initial appointed members of the Board of Agriculture and Conservation shall be
30 appointed to one-year terms and two initial appointed members of the board shall be appointed
31 to two-year terms.

1 (b) Notwithstanding AS 03.09.040, enacted in sec. 1 of this Act, AS 03.10.020(a), as
2 amended in sec. 2 of this Act, AS 03.10.030(h), as amended in sec. 8 of this Act, and
3 AS 03.10.033(a), as amended in sec. 9 of this Act, regulations that apply to the agricultural
4 revolving loan fund and to loans from the fund remain in effect until amended or repealed by
5 the Board of Agriculture and Conservation.

6 * **Sec. 31.** This Act takes effect July 1, 2000.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

Representative Jeannette James



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SPONSOR STATEMENT

House Bill 116 Board of Agriculture and Conservation

3/15/00

HB 116 (RES) is the culmination of much intensive work by representatives from the legislature, administration, conservation boards, and the agriculture industry.

House Bill 116 proposes a new board - The Board of Agriculture and Conservation - comprised of the Commissioner of DNR plus seven people involved in grass-roots commercial production agriculture.

It extends the life of the Agriculture Revolving Loan Fund (ARLF) by instituting a grass-roots, fiscally conservative board that has more control over ARLF funds. It makes the ARLF interest rate competitive with other loans which are currently drawing farmers away and shortening the life and income of the ARLF. HB 116 allows flexibility for the new board to restructure loans in the event of a disaster, and it strengthens the emergency loan program.

The bill also assures that the board will be consulted prior to any disposal of agricultural land. The new board submits names to the Commissioner of DNR for selection of a Director of the Division of Agriculture, which gives the grass-roots industry a say in the appointment of that position.

House Bill 116 provides much-needed stability and allows long-term planning and growth for the agriculture industry in Alaska.

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Sectional Analysis
CS HB 116 - work draft Z

3/15/00

Section 1 adds an entire new chapter to Title 3 Agriculture and Animals

"CHAPTER 9. BOARD OF AGRICULTURE AND CONSERVATION."

The new Board of Agriculture and Conservation consists of the Commissioner of D.N.R. and seven members appointed by the Governor:

- One with business or financial experience,
- One from a statewide agriculture promotion organization,
- One from Alaska Soil and Water Conservation Districts,
- Four from different enterprises in commercial production agriculture.

Appointed members serve staggered three-year terms and may be removed from office by the Governor only if the governor first provides a written statement of the reasons for removal.

A person may be appointed to the Board even though that person or an immediate family member has an existing lease, permit, or loan for which the board is responsible, but that person may not participate in any Board action that directly affects that lease, permit, or loan.

While serving on the Board, and for one year after leaving that office, a board member or an immediate family member of a board member may not obtain a new lease, permit, or loan for which the Board is responsible.

The director of agriculture shall be chosen by the Commissioner of DNR from a list of two or more names submitted by the Board. The director of agriculture shall also serve as the director of the new Board and shall be responsible for the daily operations of the agricultural revolving loan fund, as directed by the Board.

The Board may make recommendations to the Commissioner of DNR regarding identification and disposal of agricultural land.

Section 2 amends existing statute, authorizing the new board (instead of DNR) to make loans.

Section 3 amends existing statute, making the interest rate on farm development, chattel, or irrigation loans comparable to that charged by other agricultural lending institutions in the state.

Section 4 amends existing statute, authorizing the new board, instead of the ARLF Board, to extend the term of a loan for up to three years.

Section 5 amends existing statute, authorizing the new board, in place of DNR and Division of Agriculture, to assess delinquency and penalties on loans.

Section 6 amends existing statute, making the interest rate on farm product processing loans comparable to that charged by other agricultural lending institutions in the state.

Section 7 amends existing statute, making the interest rate on loans for clearing land comparable to that charged by other agricultural lending institutions in the state.

Section 8 amends existing statute, authorizing the new board, instead of the Commissioner of DNR, to adopt regulations to establish other terms and interest rates for loans.

Section 9 amends existing statute, authorizing the new board to restructure loans by reducing interest and extending terms to a borrower who has experienced an agricultural disaster as defined by regulations adopted by the board.

Section 10 amends existing statute, authorizing the new board, rather than the ARLF Board, to approve an application for loan restructuring.

Section 11 amends existing statute, designating the new board, instead of the Commissioner of DNR, to be the recipient of out-standing balance payments.

Section 12 amends existing statute, authorizing the legislature to appropriate money from the ARLF for costs of administering the operations of the new board.

Section 13 amends existing statute, giving the new board, instead of the commissioner of DNR, authority to administer the ARLF. A loan may not be made without the approval of a majority of the board, except that emergency loans up to \$50,000 may be approved by majority vote of a committee composed of the board chair, another board member, and the director.

Section 14 amends existing statute, exempting the new board from public meeting requirements.

Section 15 amends existing statute, allowing the new board, rather than DNR, to establish credits for loans maintained in good financial standing.

Section 16 amends existing statute, allowing the new board, rather than the Director of Agriculture, to dispose of property acquired through foreclosure or default. It also allows money from such disposals to be appropriated to the ARLF.

Section 17 amends existing statute and adds a new subsection, specifying that the new board shall be given the opportunity to comment before disposal of any state land designated as agricultural.

Section 18 amends existing statute, specifying that the new board shall be consulted prior to conveyance of agricultural use rights.

Section 19 amends existing statute, specifying that the new board shall be consulted prior to any action to waive, postpone, or modify development requirements of a contract for sale of agricultural land.

Section 20 amends existing statute, specifying that the new board shall be consulted prior to any action to adopt regulations specifying qualifications for lottery participants involving agricultural land disposal.

Section 21 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for the sale of agricultural land subject to state subdivision requirements and municipal ordinances.

Section 22 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for maximum interest rates, to declare a moratorium of up to five years on payments, to certify agreements with purchasers to perform development and expenditures during a moratorium, and to assure compliance with development plans during a moratorium.

Section 23 amends existing statute, specifying that the new board shall be consulted prior to any action granting an Alaska resident first option on auctioned agricultural land.

Section 24 amends existing statute to allow payments collected under this section to be appropriated to the ARLF.

Section 25 amends existing statute, specifying that the new board shall be consulted before the Director of the Division of Mining, Land, and Water disposes of any land designated as agricultural.

Section 26 amends existing statute, allowing payments received under this section to be accounted for separately and appropriated to the ARLF.

Section 27 amends existing statute specifying that the new board shall be consulted prior to any action to dispose of homestead entry land designated as agricultural.

Section 28 adds the new board to the list of boards defined in statute.

Section 29 *REPEALS* existing statutes which:

Define the ARLF Board,
Define a duty of the ARLF Board,
Define limitations on ARLF Board members,
Place the ARLF Board in statute.

Section 30 outlines the transition process from existing boards to the new board.

Section 31 sets the effective date of this bill as July 1, 2000.

1-LS0407T
Cook
2/15/00

~~adopted 2/16/00~~

CS FOR HOUSE BILL NO. 116(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): **REPRESENTATIVES JAMES, Harris**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Board of Agriculture and Conservation, to the
2 agricultural revolving loan fund and to loans from the fund, to the disposal of
3 interests in state agricultural land; and providing for an effective date."

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

5 * Section 1. AS 03 is amended by adding new sections to read:

6 Chapter 09. Board of Agriculture and Conservation.

7 Sec. 03.09.010. Board of Agriculture and Conservation established. (a)

8 There is established in the department the Board of Agriculture and Conservation. The
9 board consists of the commissioner and seven members appointed by the governor.

10 Appointed members shall have the following qualifications:

- 11 (1) one member shall have general business or financial experience;
- 12 (2) one member shall be a member of a statewide agriculture promotion
- 13 organization;
- 14 (3) one member shall be a member of a soil and water conservation

1 district established under AS 41.10.130(a) who is also engaged in commercial
2 production agriculture;

3 (4) four members shall be engaged in commercial production
4 agriculture, each shall represent a different agriculture enterprise from the others, such
5 as livestock production, dairy, vegetable production, grain production, horticultural
6 production, and greenhouse and hydroponic production.

7 (b) Appointed members of the board serve staggered three-year terms and until
8 a successor is appointed. Appointed members may be removed from office by the
9 governor only for cause. If a vacancy occurs, the governor shall immediately appoint
10 a member for the unexpired portion of the term.

11 (c) Appointed members of the board receive no compensation, but are entitled
12 to per diem and travel expenses authorized for boards and commissions under
13 AS 39.20.180.

14 (d) While serving on the board and for one year after leaving that office, a
15 board member or an immediate family member of the board member, may not obtain
16 a lease, permit, or loan under AS 03.10 or under AS 38.05. Notwithstanding
17 AS 39.52.150(a), a person may be appointed to the board even though, at the time of
18 appointment, that person, or an immediate family member, has a lease, permit, or loan
19 under AS 03.10 or AS 38.05. However, that person may not participate in any action
20 by the board that directly affects that lease, permit, or loan. If a person with a lease,
21 permit, or loan under AS 03.10 or AS 38.05 is appointed to the board, failure by that
22 person to abide by all the terms and conditions of the lease, permit, or loan constitutes
23 cause for removal under (b) of this section.

24 **Sec. 03.09.020. Officers and employees.** (a) The Board of Agriculture and
25 Conservation shall elect a member to serve as chair and a member to serve as vice-
26 chair for one-year terms. A member may be reelected to serve additional terms as
27 chair or vice-chair.

28 (b) The board may appoint a director, who may employ staff and who is
29 responsible for the daily operations of the agricultural revolving loan fund
30 (AS 03.10.040). The director is in the exempt service under AS 39.25.110.

31 **Sec. 03.09.030. Quorum.** Five members of the Board of Agriculture and

1 Conservation constitute a quorum for the transaction of business or the exercise of a
2 power or function at a meeting of the board.

3 **Sec. 03.09.040. Regulations.** (a) The Board of Agriculture and Conservation
4 may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out its
5 duties.

6 (b) The board may, by regulation, classify loan and marketing information and
7 make some classes of loan or marketing information confidential.

8 **Sec. 03.09.050. Agricultural land.** The Board of Agriculture and
9 Conservation may recommend to the commissioner that land in the land disposal bank
10 established under AS 38.04.020 be classified as suitable for agriculture. The board
11 may identify state land for agricultural disposal and request the commissioner to
12 provide for the survey and disposal of the land.

13 * **Sec. 2.** AS 03.10.020(a) is amended to read:

14 (a) The Board of Agriculture and Conservation (AS 03.09.010)
15 [DEPARTMENT] may

16 (1) make a loan to

17 (A) an individual resident farmer, homesteader, or a partnership
18 or corporation composed of farmers and homesteaders for

19 (i) clearing land for agricultural purposes;

20 (ii) development of farms;

21 (iii) storage and processing of farm produce; or

22 (iv) the purchase of livestock or machinery;

23 (B) an individual state resident, or a partnership or corporation

24 for

25 (i) storage and processing plants for agricultural
26 products;

27 (ii) the commercial production or processing of
28 horticultural products in the state;

29 (iii) the commercial production or processing of animal
30 feed in the state; or

31 (iv) the raising or care of animals in the state for the

- 1 purpose of marketing their fur;
- 2 (2) designate agents and delegate its powers to them as necessary;
- 3 (3) adopt regulations necessary to carry out its functions, including
- 4 regulations to establish reasonable fees for services provided and charges for collecting
- 5 the fees;
- 6 (4) establish amortization plans for repayment of loans, which may
- 7 include delayed payments of principal and interest for not to exceed five years;
- 8 (5) enter into agreements with private lending institutions, other state
- 9 agencies or agencies of the federal government, to carry out the purposes of this
- 10 chapter;
- 11 (6) collect the fees and collection charges established under this
- 12 subsection.

13 * Sec. 3. AS 03.10.030(a) is amended to read:

- 14 (a) The farm development, chattel, or irrigation loan made under this chapter
- 15 (1) may not exceed a term of 30 years, except that a chattel loan may
- 16 not exceed a term of seven years;
- 17 (2) may not, when added to the outstanding balance of other loans
- 18 made under this chapter, exceed a total outstanding balance of \$1,000,000;
- 19 (3) shall be secured by a real estate or chattel mortgage of any priority,
- 20 except that the portion of a loan that exceeds \$500,000, when added to prior
- 21 indebtedness that is secured by the same property, must be secured by a first mortgage;
- 22 (4) shall bear interest at a fixed rate comparable to that charged by
- 23 other agricultural [THAT MAY NOT BE LESS THAN EIGHT PERCENT OR
- 24 MORE THAN THE COMMERCIAL RATE, UNLESS THE COMMERCIAL RATE
- 25 IS EIGHT PERCENT OR LESS; IN THIS PARAGRAPH, "COMMERCIAL RATE"
- 26 MEANS THE PREVAILING RATE OF INTEREST AT PRIVATE] lending
- 27 institutions in the state for loans similar to those referred to in this subsection.

28 * Sec. 4. AS 03.10.030(c) is amended to read:

- 29 (c) A short-term [SHORT TERM] loan, to be amortized within one year, not
- 30 to exceed \$350,000 to any one borrower may be made for operating purposes, except
- 31 that a loan made under this subsection may not exceed \$200,000 unless the loan is

1 made to a borrower in a farm disaster area declared under AS 03.10.058. The loan
2 shall bear interest at a fixed rate comparable to that charged by other
3 agricultural lending institutions in the state for loans similar to those referred to
4 in this subsection. An applicant for a short-term [SHORT TERM] loan may be
5 required to purchase insurance through the Federal Crop Insurance Act (7 U.S.C. 1501
6 - 1520) as a condition of the loan. The term of a loan made under this subsection may
7 be extended for up to three years by the Board of Agriculture and Conservation
8 [AGRICULTURAL REVOLVING LOAN FUND BOARD], in the discretion of the
9 board, upon application by the borrower.

10 * Sec. 5. AS 03.10.030(e) is amended to read:

11 (e) An installment payment is delinquent unless it is mailed by the borrower
12 on or before the 30th day after the date specified for payment in the loan agreement
13 or unless it is received by the Board of Agriculture and Conservation
14 [DEPARTMENT] on or before the 30th day after the date specified for payment in the
15 loan agreement. If an installment payment is delinquent, the director of the board
16 [DIVISION OF AGRICULTURE OF THE DEPARTMENT] may assess a delinquency
17 penalty. The delinquency penalty shall be an amount equal to seven percent of the
18 delinquent payment, but the combined delinquency penalty and loan interest may not
19 exceed 15 percent.

20 * Sec. 6. AS 03.10.030(f) is amended to read:

21 (f) A farm product processing loan may not exceed \$250,000. A mortgage
22 that secures a farm product processing loan may be of any priority if the total
23 indebtedness on the real estate, including the secured farm product processing loan,
24 does not exceed \$250,000. A farm product processing loan that, if made, would raise
25 the existing indebtedness on the real estate securing the loan above \$250,000, or a
26 farm product processing loan on real estate that has a prior indebtedness of \$250,000
27 or more, may be made only if all prior mortgagees agree to subordinate their
28 mortgages to that of the state for the amount of the farm product processing loan that
29 exceeds the \$250,000 indebtedness limit on the real estate. A farm product processing
30 loan may not exceed a term of 30 years or bear interest at a rate that is less than a
31 fixed rate comparable to that charged by other agricultural lending institutions

1 in the state for similar loans, [EIGHT PERCENT A YEAR] and shall be secured by
2 a real estate or chattel mortgage or both.

3 * Sec. 7. AS 03.10.030(g) is amended to read:

4 (g) A loan for clearing land may not

5 (1) exceed \$250,000;

6 (2) bear interest at a rate that is less than a fixed rate comparable to
7 that charged by other agricultural lending institutions in the state for similar
8 loans [EIGHT PERCENT];

9 (3) have a term in excess of 20 years; or

10 (4) be made for clearing land other than land that has been classified
11 by the United States Department of Agriculture, Natural Resource [SOIL]
12 Conservation Service, under the Land Capability Classification System as having
13 agricultural potential for the production of annual crops or [,] hay, or for pasture.

14 * Sec. 8. AS 03.10.030(h) is amended to read:

15 (h) The Board of Agriculture and Conservation [COMMISSIONER] shall
16 adopt regulations to establish other terms for loans made under this chapter, consistent
17 with the provisions of this section, and may establish interest rates for loans under
18 (a)(4) of this section that

19 (1) encourage agricultural development;

20 (2) do not subsidize nonviable agricultural enterprises; and

21 (3) do not discriminate against viable existing agricultural enterprises.

22 * Sec. 9. AS 03.10.033(a) is amended to read:

23 (a) To increase the return to the state, the Board of Agriculture and
24 Conservation [AGRICULTURAL REVOLVING LOAN FUND BOARD] may
25 restructure loans (1) in existence on January 1, 1987, made by the former
26 Agricultural Revolving Loan Fund Board [BOARD] or by the former Alaska
27 Agricultural Action Council based upon guidelines approved by the Board of
28 Agriculture and Conservation; (2) of a borrower in an area that has been
29 declared a farm disaster area under AS 03.10.058; or (3) of a borrower who has
30 experienced an agricultural disaster based upon regulations adopted by the
31 Board of Agriculture and Conservation. Notwithstanding any other provision of

1 law that relates to loan terms, the [BOARD. THE] restructuring may only include
2 reduction of interest to a fixed rate not less than five percent a year [TO RATES
3 BELOW THOSE SPECIFIED BY AS 03.10.030], an extension of the term of the loan,
4 and an improvement to the security interest of the state. It may not reduce the amount
5 of principal and interest owed before the loan is restructured. AS 03.10.030(a)(1) does
6 not apply to a loan that is restructured under this section.

7 * Sec. 10. AS 03.10.033(c) is amended to read:

8 (c) Notwithstanding any other provision of this section, the Board of
9 Agriculture and Conservation [AGRICULTURAL REVOLVING LOAN FUND
10 BOARD] may approve an application for restructuring under this section only upon

11 (1) the applicant's written release of the state, including [THE
12 ALASKA AGRICULTURE ACTION COUNCIL, THE AGRICULTURAL
13 REVOLVING LOAN FUND, AND] the University of Alaska, from all potential
14 liability for actions and omissions occurring before the date of restructuring that relate
15 in any way to a state farm project, land sale, land sale relinquishment, farm loan, or
16 loan application or loan modification application, whether granted or denied by the
17 state; and

18 (2) assignment by the applicant to the board of the proceeds from the
19 federal government under 7 U.S.C. 1442 (Conservation Reserve Program) and P.L. 88-
20 26 (Feed Grain Act of 1963), as amended.

21 * Sec. 11. AS 03.10.035(a) is amended to read:

22 (a) A borrower may not use farm land for a nonfarm [NON-FARM] use or
23 sell, lease, or otherwise dispose of farm land if that land is encumbered by a mortgage
24 given to secure the payment of a farm development, chattel, or irrigation system loan
25 under this chapter unless the borrower either

26 (1) pays the outstanding balance of the loan in a lump sum or under
27 other terms agreed to by the Board of Agriculture and Conservation
28 [COMMISSIONER] that accelerate payment of the loan; or

29 (2) pays the outstanding principal balance for the remaining term of the
30 loan at the prevailing rate of interest that is charged by commercial banks in the state
31 during the calendar quarter in which the board [DEPARTMENT] receives notice of

1 the change of use, sale, lease, or other disposal of the farm land.

2 * Sec. 12. AS 03.10.040(b) is amended to read:

3 (b) Money in the fund may be used by the legislature to make appropriations
4 for costs of administering this chapter and for operations of the Board of
5 Agriculture and Conservation.

6 * Sec. 13. AS 03.10.050(a) is amended to read:

7 (a) The Board of Agriculture and Conservation [COMMISSIONER] shall
8 administer the agricultural revolving loan fund [IN CONJUNCTION WITH THE
9 AGRICULTURAL REVOLVING LOAN FUND BOARD]. A [NO] loan [IN EXCESS
10 OF \$25,000] may not be made [BY THE COMMISSIONER] without the approval of
11 a majority of the board, except that emergency loans based upon regulations
12 adopted by the board and not to exceed \$50,000 may be made upon the approval,
13 by majority vote, of a committee composed of the chair of the board, another
14 board member, and the director of the board.

15 * Sec. 14. AS 03.10.050(c) is amended to read:

16 (c) A meeting of the [AGRICULTURAL REVOLVING LOAN FUND] board
17 to act on applications for loans is exempt from the public meeting requirements of
18 AS 44.62.310.

19 * Sec. 15. AS 03.10.050(e) is amended to read:

20 (e) To encourage the prompt payment of loans, the board [DEPARTMENT]
21 may establish a program of credits for persons who have a loan from the agricultural
22 revolving loan fund and maintain good financial standing. The credits may be applied
23 against no more than two percentage points a year of the interest due on agricultural
24 revolving loan fund loans.

25 * Sec. 16. AS 03.10.050(g) is amended to read:

26 (g) The board [DIRECTOR OF AGRICULTURE] may dispose of property
27 acquired by the agricultural revolving loan fund [AGRICULTURAL REVOLVING
28 LOAN FUND BOARD OR BY THE COMMISSIONER] through foreclosure, default,
29 or other action arising out of agricultural loans or the sale of agricultural land.
30 Disposals shall be conducted under regulations approved by the commissioner. The
31 regulations must ensure that the property is disposed of so as to maximize the return

1 to the state and must require that the parcels of land that are composed primarily of
2 cropland soils be restricted to agricultural uses and disposed of only to persons who
3 are residents of the state.

4 * Sec. 17. AS 38.04.020(g) is amended to read:

5 (g) After July 1 of each year, the commissioner shall direct the expenditure of
6 money appropriated for the disposal of land in response to requests made under (e) and
7 (f) of this section for the following:

8 (1) land [LAND] designated as suitable for homestead disposal shall
9 be classified and surveyed under this chapter and AS 38.05 and made available for
10 staking and lease under AS 38.09; [.]

11 (2) land [LAND] designated as suitable for subdivision and homesite
12 disposal shall be surveyed, subdivided, classified, and disposed of under this chapter,
13 AS 38.05, and AS 38.08; [.]

14 (3) land [LAND] designated [AGRICULTURAL,] commercial,
15 industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057;

16 (4) land designated agricultural shall be disposed of under
17 AS 38.05.055 - 38.05.065, except the Board of Agriculture and Conservation
18 (AS 03.09.010) shall receive notice of each proposed disposal and be given an
19 opportunity to comment before the final disposal decision is made.

20 * Sec. 18. AS 38.04.030 is amended to read:

21 **Sec. 38.04.030. Land availability programs.** Programs that may be used by
22 the director to make the state's land surface available for private use under
23 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
24 estate, including conveyance of agricultural use rights; leasing; open-to-entry;
25 homesiting; homesteading; permitting for construction and occupation of cabins in
26 isolated locations on land retained in state ownership; and other methods as provided
27 by law. However, agricultural use rights may be conveyed only after consulting
28 with the Board of Agriculture and Conservation.

29 * Sec. 19. AS 38.05.020(b)(7) is amended to read:

30 (7) after consulting with the Board of Agriculture and Conservation
31 (AS 03.09.010), to waive, postpone, or otherwise modify the development requirements

1 of a contract for the sale of agricultural land if

2 (A) the land is inaccessible by road; or

3 (B) transportation, marketing, and development costs render the
4 required development uneconomic;

5 * Sec. 20. AS 38.05.057(c) is amended to read:

6 (c) The commissioner, after consulting with the Board of Agriculture and
7 Conservation (AS 03.09.010), may adopt regulations under the Administrative
8 Procedure Act (AS 44.62) that [WHICH] specify qualifications for lottery participants
9 different from those specified in (b) of this section if

10 (1) an interest in land limited to agricultural purposes is to be sold
11 under (a) of this section;

12 (2) the sale is a part of a program to develop agricultural land as a
13 renewable resource of the state; and

14 (3) the regulations include residency, skill, experience, and financial
15 requirements necessary to qualify persons who are competent and financially able to
16 develop the land as a successful agricultural enterprise.

17 * Sec. 21. AS 38.05.059 is amended to read:

18 Sec. 38.05.059. Sale of agricultural land. The commissioner, after
19 consulting with the Board of Agriculture and Conservation (AS 03.09.010), may
20 provide for the sale of land classified under AS 38.05.020(b)(6) for agricultural uses
21 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
22 subdivision requirements and municipal ordinances.

23 * Sec. 22. AS 38.05.065(h) is amended to read:

24 (h) The commissioner, after consulting with the Board of Agriculture and
25 Conservation (AS 03.09.010),

26 (1) shall provide that, notwithstanding (a) and (b) of this section, in a
27 contract for the sale of land classified under AS ~~38.05.020(b)(6)~~ for agricultural uses,
28 the interest rate to be charged on installment payments may not exceed 9.5 percent;
29 and

30 (2) may declare a moratorium of up to five years on payments on land
31 sold under this section or land classified under AS 38.05.020(b)(6) for agricultural

1 uses if

2 (A) the commissioner determines that the moratorium is in the
3 best interest of the state;

4 (B) the commissioner certifies and the contract purchaser agrees
5 to perform farm development, crop production, and harvesting, not including
6 land clearing or related activity, requiring the expenditure of amounts
7 equivalent to the payments that would otherwise be made during the
8 moratorium;

9 (C) the sale of the agricultural land takes place after July 1,
10 1979; and

11 (D) the contract purchaser is in compliance with the
12 development plan specified in the purchase contract at the time the purchaser
13 applies for a moratorium under this subsection and remains in compliance with
14 the development plan during the moratorium; for the payments subject to the
15 moratorium declared under this paragraph, interest payments are subject to the
16 moratorium but interest continues to accrue during the moratorium.

17 * Sec. 23. AS 38.05.069(a) is amended to read:

18 (a) After consulting with the Board of Agriculture and Conservation
19 (AS 03.09.010). on [ON] a determination that the highest and best use of unoccupied
20 land is for agricultural purposes and that it is in the best interests of the state to sell
21 or lease the land, the commissioner shall grant to an Alaska [ALASKAN] resident
22 owning and using or leasing and using land for agricultural purposes a first option at
23 the auction to purchase or lease the unoccupied land situated adjacent to land presently
24 held by the Alaska [ALASKAN] resident for the amount of the high bid received at
25 public auction. If more than one Alaska [ALASKAN] resident qualifies for a first
26 option under this section, eligibility for the first option shall be determined by lot and
27 the option must be exercised on the conclusion of the public auction. A parcel of
28 agricultural land sold under this section may not be less than 20 acres, and a parcel of
29 agricultural land that is acquired by exercise of the option granted in this subsection
30 may not exceed 320 acres. Agricultural land that is acquired under this section must
31 be used for agricultural purposes as required by law.

1 * Sec. 24. AS 38.05.321(e) is amended to read:

2 (e) A landowner may subdivide land classified for agricultural use and for
3 which the landowner obtained a patent under a homestead entry permit issued under
4 AS 38.09 so long as the resulting parcels are not in violation of the minimum parcel
5 size set out in (a) of this section. A landowner may subdivide other land classified for
6 agricultural use as authorized under (d)(3)(C) of this section. If the subdivision
7 involves land classified for agricultural use and for which the landowner obtained a
8 patent under a homestead entry permit issued under AS 38.09, or if the subdivision of
9 land authorized under (d)(3)(C) of this section results only in parcels of 640 acres or
10 more, the landowner may subdivide without payment as required by this subsection.
11 If subdivision of land authorized by (d)(3)(C) of this section would result in one or
12 more parcels of less than 640 acres, the landowner may subdivide only if the
13 landowner first tenders payment to the department for the right to construct housing
14 in each subdivided parcel of less than 640 acres. Payments collected under this
15 subsection shall be separately accounted for and may be appropriated to the
16 agricultural revolving loan fund (AS 03.10.040). For purposes of this subsection,
17 the value of the right to construct housing in a subdivided parcel

18 (1) is \$4,000 for the parcel, subject to adjustment under (h) of this
19 section; or

20 (2) shall be determined by an appraisal made by an appraiser under
21 contract to the landowner owning the parcel, and the appraisal must include the value,
22 determined as of the date of subdivision, of the right to construct housing by the
23 landowner under (d)(3) of this section.

24 * Sec. 25. AS 38.05.035(b) is amended to read:

25 (b) The director may

26 (1) delegate the administrative duties, functions or powers imposed
27 upon the director to a responsible employee in the division;

28 (2) grant preference rights for the lease or purchase of state land
29 without competitive bid in order to correct errors or omissions of a state or federal
30 administrative agency when inequitable detriment would otherwise result to a diligent
31 claimant or applicant due to situations over which the claimant or applicant had no

1 control; the exercise of this discretionary power operates only to divest the state of its
2 title to or interests in land and may be exercised only

3 (A) with the express approval of the commissioner; and

4 (B) if the application for the preference right is filed with the
5 director within three years from

6 (i) the occurrence of the error or omission;

7 (ii) the date of acquisition by the state of the land; or

8 (iii) the date of a court decision or settlement nullifying
9 a disposal of state land;

10 (3) grant a preference right to a claimant who shows bona fide
11 improvement of state land or of federal land subsequently acquired by the state and
12 who has in good faith sought to obtain title to the land but who, through error or
13 omission of others occurring within the three years before (A) the application for the
14 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
15 a court decision or settlement nullifying a disposal of state land, has been denied title
16 to it; upon a showing satisfactory to the commissioner, the claimant may lease or
17 purchase the land at the price set on the date of original entry on the land or, if a price
18 was not set at that time at a price determined by the director to fairly represent the
19 value of unimproved land at the time the claim was established, but in no event less
20 than the cost of administration including survey; the error or omission of a predecessor
21 in interest or an agent, administrator, or executor which has clearly prejudiced the
22 claimant may be the basis for granting a preference right;

23 (4) sell land by lottery for less than the appraised value when, in the
24 judgment of the director, past scarcity of land suitable for private ownership in any
25 particular area has resulted in unrealistic land values;

26 (5) when the director determines it is in the best interest of the state
27 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
28 land, by direct negotiation to that person who presently uses and who used and made
29 improvements to that land before January 3, 1959, or to the heirs or devisees of the
30 person; the amount paid for the land shall be its fair market value on the date that the
31 person first entered the land, as determined by the director; a parcel of land disposed

1 of under this paragraph shall be of a size consistent with the person's prior use, but
2 may not exceed five acres;

3 (6) after consulting with the Board of Agriculture and Conservation
4 (AS 03.09.010), dispose of an interest in land limited to use for agricultural purposes
5 by lottery;

6 (7) convey to an adjoining landowner for its fair market value a
7 remnant of land that the director considers unmanageable or a parcel of land created
8 by a highway right-of-way alignment or realignment, or a parcel created by the
9 vacation of a state-owned right-of-way if

10 (A) the director determines that it is in the best interests of the
11 state;

12 (B) the parcel does not exceed the minimum lot size under an
13 applicable zoning code; and

14 (C) the director and the platting authority having land use
15 planning jurisdiction agree that conveyance of the parcel to the adjoining
16 landowner will result in boundaries that are convenient for the use of the land
17 by the landowner and compatible with municipal land use plans;

18 (8) for good cause extend for up to 90 days the time for rental or
19 installment payments by a lessee or purchaser of state land under this chapter if
20 reasonable penalties and interest set by the director are paid;

21 (9) ~~quitclaim~~ land or an interest in land to the federal government on
22 a determination that the land or the interest in land was wrongfully or erroneously
23 conveyed by the federal government to the state;

24 (10) negotiate the sale or lease of state land at fair market value to a
25 person who acquired by contract, purchase, or lease rights to improvements on the land
26 from another state agency or who leased the land from another state agency [;

27 (11) REPEALED].

28 * Sec. 26. AS 38.07.010(b) is amended to read:

29 (b) The land that is [THUS] cleared or drained under (a) of this section shall
30 be put up for competitive lease in lots of not less than 320 acres each. Lease
31 payments shall be separately accounted for and may be appropriated to the

1 **agricultural revolving loan fund (AS 03.10.040).**

2 * **Sec. 27.** AS 38.09.010(a) is amended to read:

3 (a) The commissioner shall designate and make available for homestead entry
4 state land, including, **after consulting with the Board of Agriculture and**
5 **Conservation (AS 03.09.010)**, land classified for agricultural use. State land made
6 available for homestead entry under this chapter shall be distributed throughout the
7 state.

8 * **Sec. 28.** AS 39.25.110 is amended by adding a new paragraph to read:

9 (34) the director of the Board of Agriculture and Conservation.

10 * **Sec. 29.** AS 39.50.200(b) is amended by adding a new paragraph to read:

11 (56) Board of Agriculture and Conservation (AS 03.09.010).

12 * **Sec. 30.** AS 03.10.050(b), 03.10.050(d), 03.10.052; and AS 39.50.200(b)(1) are repealed.

13 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section
14 to read:

15 **TRANSITION.** (a) Notwithstanding AS 03.09.010(b), enacted in sec. 1 of this Act,
16 two initial appointed members of the Board of Agriculture and Conservation shall be
17 appointed to one-year terms and two initial appointed members of the board shall be appointed
18 to two-year terms.

19 (b) Notwithstanding AS 03.09.040, enacted in sec. 1 of this Act, AS 03.10.020(a), as
20 amended in sec. 2 of this Act, AS 03.10.030(h), as amended in sec. 8 of this Act, and
21 AS 03.10.033(a), as amended in sec. 9 of this Act, regulations that apply to the agricultural
22 revolving loan fund and to loans from the fund remain in effect until amended or repealed by
23 the Board of Agriculture and Conservation.

24 * **Sec. 32.** This Act takes effect July 1, 2000.

COMPILED DNR DELEGATIONS CURRENT TO 11/9/99

STATUTE	AUTHORITY	VESTED	DEL TO
AS 03.05.010(a)(1)	Direct agricultural research.	COMM	DOA
AS 03.05.010(a)(2)	Collect agricultural information and make public.	COMM	DOA
AS 03.05.010(a)(3)	Provide information to farmers.	COMM	DOA
AS 03.05.010(a)(4)	Study agricultural market and negotiate marketing with other state and federal agencies.	COMM	DOA
AS 03.05.010(a)(5)	Regulate and control entry into the state and the transport, sale or use of plants, seeds, vegetables and shell eggs.	COMM	DOA
AS 03.05.010(a)(6)	Regulate the farming of elk. Comment: "Commissioner retains authority to adopt regulations."	COMM	DOA
AS 03.05.010(b)	Adopt regulations to carry out requirements of title.	COMM	NONE
AS 03.05.010(b)	Require labeling, inspect for pests, order quarantines, and cooperate with other state and federal agencies.	COMM	DOA
AS 03.05.040(a)	Enter premises to inspect agricultural products. Delegation by memorandum dated Sept. 30, 1999.	COMM	DOA
AS 03.05.050(a)	Find agricultural product to be in violation and allow removal only if specifically directed. Delegation by memorandum dated Sept. 30, 1999.	COMM	DOA
AS 03.10.020(a)(1)	Make loans.	COMM	DOA
AS 03.10.020(a)(2)	Delegate powers.	COMM	DOA
AS 03.10.020(a)(3)	Adopt regulations.	COMM	NONE
AS 03.10.020(a)(4)	Establish amortization plans.	COMM	DOA
AS 03.10.020(a)(5)	Enter into agreements.	COMM	DOA
AS 03.10.030	Set terms for farm development, chattel, irrigation, farm operating, farm product processing and land clearing loans.	COMM	DOA

STATUTE	AUTHORITY	VESTED	DEL TO
AS 03.10.030(h)	Adopt regulations to establish other terms and interest rates.	COMM	NONE
AS 03.10.050(a)	Share administration of agricultural revolving loan fund board.	COMM	DOA
AS 03.10.050(e)	Establish a program of credits for persons with ARLF loans.	COMM	DOA
AS 03.10.050(g)	Dispose of land acquired by ARLF or by the commissioner. [Error in citation corrected by memorandum dated October 4, 1984.] Comment: "Commissioner retains authority to adopt disposal regulations."	DOA	NONE
AS 03.12.030	REPEALED 1983.		
AS 03.13.010	Administer Federal Crop Insurance Corporation Program.	COMM	DOA
AS 03.16.020	Use appropriations to control pests.	COMM	DOA
AS 03.17.010	REPEALED 1995.		
AS 03.17.020	REPEALED 1995.		
AS 03.17.040	REPEALED 1995.		
AS 03.17.060(a)	REPEALED 1995.		
AS 03.17.060(c)	REPEALED 1995.		
AS 03.17.065	REPEALED 1995.		
AS 03.20.030	Receive fair operation grant applications, decide whether eligible, make grants, and require satisfactory receipts. Receive report of all expenditures and transmit report to legislature. Comment: "Send report through commissioner's office."	COMM	DOA
AS 03.20.035	Receive fair capital improvement grant applications, determine eligibility, issue grants, require receipts. Transmit association's report to the legislature.	COMM	DOA
AS 03.20.040	Collect and display exhibits outside of the state and account for expenses.	COMM	DOA
AS 03.20.050	Divide available funds for multi's fairs within same house election district.	COMM	DOA
AS 03.20.060	Require fairs to purchase some permanent exhibits and hold them until needed.	COMM	DOA

STATUTE	AUTHORITY	VESTED	DEL TO
AS 03.20.070(b)	Investigate and require refund of unexpended capital improvement funds.	COMM	DOA
AS 03.22.010	Establish and maintain plant materials center.	COMM	DOA
AS 03.22.030	Obtain site and erect buildings if needed for plant materials center.	COMM	DOA
AS 03.22.040	Hire personnel.	COMM	DOA
AS 03.22.050	Sign memorandum of understanding with SCS, Institute of Agricultural Sciences, and other agencies or organizations.	COMM	DOA
AS 03.22.060	Report to legislature annually. Comment: "Send through commissioner's office."	COMM	DOA
AS 03.22.070	Seek financial and other assistance from other sources.	COMM	DOA
AS 03.22.080	Approve vouchers and set method for approval.	COMM	DOA
AS 03.35.030	Receive copy of district court order setting up controlled livestock districts.	DOA	NONE
AS 03.40.030	Accept brands for record and notify owner when renewal due.	COMM	DOA
AS 03.40.040	Furnish certified copy of record to owner.	COMM	DOA
AS 03.40.050	Issue certificates of acceptance.	COMM	DOA
AS 03.40.070	Record transfers of brand.	COMM	DOA
AS 03.40.080	Publish book of brands for public sale.	COMM	DOA
AS 03.40.110	Require owners of animals brought into state to change brand if too similar to recorded brand.	COMM	DOA
AS 03.40.180	Give permits for slaughter of branded livestock.	COMM	DOA
AS 03.40.250	Inspect branded livestock at any time.	COMM	DOA
AS 03.47.030	Prevent spread of bee diseases and take necessary action. Comment: "Commissioner retains regulation adoption authority."	DOA	NONE
AS 03.57.010	REPEALED 1995.		
AS 03.57.020	REPEALED 1995.		
AS 03.57.030	REPEALED 1995.		

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SPONSOR STATEMENT

House Bill 116 Board of Agriculture and Conservation

2/10/00

HB 116 (RES) is the culmination of much intensive work by representatives from the legislature, administration, conservation boards, and the agriculture industry.

House Bill 116 proposes a new board - The Board of Agriculture and Conservation – comprised of the Commissioner of DNR plus seven people involved in grass-roots commercial production agriculture.

It extends the life of the Agriculture Revolving Loan Fund (ARLF) by instituting a grass-roots, fiscally conservative board that has more control over ARLF funds. It makes the ARLF interest rate competitive with other loans which are currently drawing farmers away and shortening the life and income of the ARLF. HB 116 allows flexibility for the new board to restructure loans in the event of a disaster, and it strengthens the emergency loan program.

HB 116 also assures that the board will be consulted prior to any disposal of agricultural land.

The new board takes over statutory duties of the existing Division of Agriculture and hires an executive director, which means long-term predictable continuity for that position. Putting decision-making power in the hands of a revolving board instead of a politically appointed director provides much-needed stability and allows long-term planning and growth for the agriculture industry in Alaska.

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Sectional Analysis
CS HB 116 (RES)

2/10/00

Section 1 adds an entire new chapter to Title 3 Agriculture and Animals

"CHAPTER 9. BOARD OF AGRICULTURE AND CONSERVATION."

The new Board of Agriculture and Conservation consists of the Commissioner of D.N.R. and seven members appointed by the Governor:

One with business or financial experience,
One from a statewide agriculture promotion organization,
One from Alaska Soil and Water Conservation Districts,
Four from different enterprises in commercial production agriculture.

Appointed members serve staggered three-year terms, and they may appoint a director who can employ staff and is responsible for daily operations of the ARLF.

Statutory duties of the Division of Agriculture are transferred to the new board.

A person may be appointed to the board even though that person or an immediate family member has an existing lease, permit, or loan for which the board is responsible, but that person may not participate in any board action that directly affects that lease, permit, or loan.

While serving on the board, and for one year after leaving that office, a board member or an immediate family member of a board member may not obtain a new lease, permit, or loan for which the board is responsible.

The board may adopt regulations and may make recommendations to the Commissioner of DNR regarding identification and disposal of agricultural land.

Section 2 amends existing statute, authorizing the new board (instead of DNR) to make loans.

Section 3 amends existing statute, making the interest rate on farm development, chattel, or irrigation loans comparable to that charged by other agricultural lending institutions in the state.

Section 4 amends existing statute, authorizing the new board, instead of the ARLF Board, to extend the term of a loan for up to three years.

Section 5 amends existing statute, authorizing the new board, in place of DNR and Division of Agriculture, to assess delinquency and penalties on loans.

Section 6 amends existing statute, making the interest rate on farm product processing loans comparable to that charged by other agricultural lending institutions in the state.

Section 7 amends existing statute, making the interest rate on loans for clearing land comparable to that charged by other agricultural lending institutions in the state.

Section 8 amends existing statute, authorizing the new board, instead of the Commissioner of DNR, to adopt regulations to establish other terms and interest rates for loans.

Section 9 amends existing statute, authorizing the new board to restructure loans by reducing interest and extending terms to a borrower who has experienced an agricultural disaster as defined by regulations adopted by the board.

Section 10 amends existing statute, authorizing the new board, rather than the ARLF Board, to approve an application for loan restructuring.

Section 11 amends existing statute, designating the new board, instead of the Commissioner of DNR, to be the recipient of out-standing balance payments.

Section 12 amends existing statute, authorizing the legislature to appropriate money from the ARLF for costs of administering the operations of the new board.

Section 13 amends existing statute, giving the new board, instead of the commissioner of DNR, authority to administer the ARLF. A loan may not be made without the approval of a majority of the board, except that emergency loans up to \$50,000 may be approved by majority vote of a committee composed of the board chair, another board member, and the director.

Section 14 amends existing statute, exempting the new board from public meeting requirements.

Section 15 amends existing statute, allowing the new board, rather than DNR, to establish credits for loans maintained in good financial standing.

Section 16 amends existing statute, allowing the new board, rather than the Director of Agriculture, to dispose of property acquired through foreclosure or default. It also allows money from such disposals to be appropriated to the ARLF.

Section 17 amends existing statute and adds a new subsection, specifying that the new board shall be given the opportunity to comment before disposal of any state land designated as agricultural.

Section 18 amends existing statute, specifying that the new board shall be consulted prior to conveyance of agricultural use rights.

Section 19 amends existing statute, specifying that the new board shall be consulted prior to any action to waive, postpone, or modify development requirements of a contract for sale of agricultural land.

Section 20 amends existing statute, specifying that the new board shall be consulted prior to any action to adopt regulations specifying qualifications for lottery participants involving agricultural land disposal.

Section 21 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for the sale of agricultural land subject to state subdivision requirements and municipal ordinances.

Section 22 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for maximum interest rates, to declare a moratorium of up to five years on payments, to certify agreements with purchasers to perform development and expenditures during a moratorium, and to assure compliance with development plans during a moratorium.

Section 23 amends existing statute, specifying that the new board shall be consulted prior to any action granting an Alaska resident first option on auctioned agricultural land.

Section 24 amends existing statute to allow payments collected under this section to be appropriated to the ARLF.

Section 25 amends existing statute, specifying that the new board shall be consulted before the Director of the Division of Mining, Land, and Water disposes of any land designated as agricultural.

Section 26 amends existing statute, allowing payments received under this section to be accounted for separately and appropriated to the ARLF.

Section 27 amends existing statute specifying that the new board shall be consulted prior to any action to dispose of homestead entry land designated as agricultural.

Section 28 amends existing statute, adding the new board's director to the list of exempt service employees.

Section 29 adds the new board to the list of boards defined in statute.

Section 30 *REPEALS* existing statutes which:

Define the ARLF Board,
Define a duty of the ARLF Board,
Define limitations on ARLF Board members,
Place the ARLF Board in statute.

Section 31 outlines the transition process from existing boards to the new board.

Section 32 sets the effective date of this bill as July 1, 2000.

HB

116

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/17/00

REPORTED OUT OF
SFC 4/18/00

FURTHER:

DATE TURNED
IN TO OFFICE: 18 April 00

Finance Committee considered CS FOR HOUSE BILL NO. 116(FIN)

"An Act relating to the Board of Agriculture and Conservation, to the director of agriculture, to the agricultural revolving loan fund and to loans from the fund, to the disposal of interests in state agricultural land; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	X		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DNR	4/17/00		10.0

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE FINANCE COMMITTEE REPORT

DATE: 4/17/00

REPORTED OUT OF
SFC 41800

FURTHER:

DATE TURNED
IN TO OFFICE: 18 April 00

Finance Committee considered

CS FOR HOUSE BILL NO. 116(FIN)

"An Act relating to the Board of Agriculture and Conservation, to the director of agriculture, to the agricultural revolving loan fund and to loans from the fund, to the disposal of interests in state agricultural land; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	X		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>		Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DNR	4/17/00		10.0

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 418100

BILL No. 2
Bill Version: SCS CSHB 116 (RES)
(S) Publish Date: 4-17-00

Revision Date/Time: 28-Mar-00 Dept Affected: Natural Resources
Title: Board of Agriculture and Conservation BRU: Agricultural Development and ARLF Admin.
Sponsor: Rep. James Component: Agricultural Development, and ARLF Program Admin.
Requestor: (S) RES Component No: 455 and 2235

Expenditures/Revenues (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL	10.0	10.0	10.0	10.0	10.0	10.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1021 ARLF	10.0	10.0	10.0	10.0	10.0	10.0
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY2000) cost: \$ none

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

FY01 and future costs are difficult to quantify since proposed legislation creates a new level of government.

Per diem allowance language section 39.20.180 (2) is unclear as to rate of reimbursement. Currently the Agricultural Revolving Loan Fund Board meeting expenses are approximately \$9.0 per year for travel related meeting expenses for 8 meeting a year, the minimum set by statute. These costs can be higher depending on where a board member lives, the number of meetings held, or if all seven seats are filled during the year. There are no costs to the Division of Agriculture for the creamery corporation meetings. The new board of agriculture, it would be reasonable to assume, would need to meet at least twice as many times or more (16) since the proposed board has an expanded mission. We estimate a potential \$10.0 increase in meeting expenses. This \$10.0 is reflected in the fiscal

Prepared by: Robert Wells *[Signature]* Phone: 907-745-7200
 Division: Division of Agriculture Date: 17-Apr-00
 Approved by Commissioner: John Shively *[Signature]* Date: 17-Apr-00
 Agency: Natural Resources

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Continuation of fiscal note for: SCSHB116(RES)

Based on loans issued in FY99, each percent decline in the interest rate of Agricultural Revolving Loan Fund loans will result in a corresponding decline in interest revenue that averages approximately \$20.0 annually over a five-year period.

Also the exiting portfolio could eventually participate in any offered reduction through requested loan modifications, which would further reduce interest income.

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SPONSOR STATEMENT

House Bill 116 Board of Agriculture and Conservation

4/16/00

House Bill 116 represents a cooperative effort and years of intensive work by the agriculture industry, the Legislature, and the Administration.

HB 116 creates a new board - The Board of Agriculture and Conservation - comprised of seven people involved in grass-roots commercial production agriculture.

The new board submits names to the Commissioner of DNR for selection of its director, and that same person will serve as the Director of the Division of Agriculture. The bill requires that the board be consulted prior to any disposal of agricultural land. In addition, HB 116 extends the life of the Agriculture Revolving Loan Fund (ARLF) by insuring that the new board has control over ARLF funds. It makes the ARLF interest rate competitive with other loans which are currently drawing farmers away and shortening the life and income of the ARLF. HB 116 allows flexibility for the new board to restructure loans in the event of a disaster, and it strengthens the emergency loan program.

House Bill 116 provides much-needed stability and allows long-term planning and growth for the agriculture industry in Alaska.

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Sectional Analysis
CS HB 116 (FIN)

4/16/00

Section 1 adds an entire new chapter to Title 3 Agriculture and Animals

"CHAPTER 9. BOARD OF AGRICULTURE AND CONSERVATION."

Members serve staggered three-year terms and may be removed from office by the Governor only if the governor first provides a written statement of the reasons for removal.

A person may be appointed to the Board even though that person or an immediate family member has an existing lease, permit, or loan for which the board is responsible, but that person may not participate in any Board action that directly affects that lease, permit, or loan, or obtain a new lease, permit, or loan for which the Board is responsible.

The director of agriculture shall be chosen by the Commissioner of DNR from a list of two or more names submitted by the Board. The director of agriculture shall also serve as the director of the new Board and shall be responsible for the daily operations of the agricultural revolving loan fund, as directed by the Board.

The Board may make recommendations to the Commissioner of DNR regarding identification and disposal of agricultural land.

Section 2 amends existing statute, authorizing the new board (instead of DNR) to make loans.

Section 3 amends existing statute, making the fixed interest rate on farm development, chattel, or irrigation loans comparable to that charged by other agricultural lending institutions in the state.

Section 4 amends existing statute, authorizing the new board, instead of the ARLF Board, to extend the term of a loan for up to three years.

Section 5 amends existing statute, authorizing the new board, in place of DNR and Division of Agriculture, to assess delinquency penalties on loans.

Section 6 amends existing statute, making the fixed interest rate on farm product processing loans comparable to that charged by other agricultural lending institutions in the state.

Section 7 amends existing statute, making the fixed interest rate on loans for clearing land comparable to that charged by other agricultural lending institutions in the state.

Section 8 amends existing statute, authorizing the new board, instead of the Commissioner of DNR, to adopt regulations to establish other terms and interest rates for loans.

Section 9 amends existing statute, authorizing the new board to restructure loans by reducing interest and extending terms to a borrower who has experienced an agricultural disaster as defined by regulations adopted by the board.

Section 10 amends existing statute, authorizing the new board, rather than the ARLF Board, to approve an application for loan restructuring.

Section 11 amends existing statute, designating the new board, instead of the Commissioner of DNR, to be the recipient of out-standing balance payments.

Section 12 amends existing statute, authorizing the legislature to appropriate money from the ARLF for costs of administering the operations of the new board.

Section 13 amends existing statute, giving the new board, instead of the commissioner of DNR, authority to administer the ARLF. A loan may not be made without the approval of a majority of the board, except that emergency loans up to \$50,000 may be approved by majority vote of a committee composed of the board chair, another board member, and the director.

Section 14 amends existing ARLF Board statutes to apply to the new Board of Agriculture and Conservation instead. The new board consists of seven members appointed by the Governor and confirmed by the Legislature. The members have the following qualifications:

One with business or financial experience,
One from a statewide agriculture promotion organization,
One from Alaska Soil and Water Conservation Districts,
Four from different enterprises in commercial production agriculture.

Section 15 amends existing statute, exempting the new board from public meeting requirements.

Section 16 amends existing statute, allowing the new board, rather than DNR, to establish credits for loans maintained in good financial standing.

Section 17 amends existing statute, allowing the new board, rather than the Director of Agriculture, to dispose of property acquired through foreclosure or default.

Section 18 amends existing statute and adds a new subsection, specifying that the new board shall be given the opportunity to comment before disposal of any state land designated as agricultural.

Section 19 amends existing statute, specifying that the new board shall be consulted prior to conveyance of agricultural use rights.

Section 20 amends existing statute, specifying that the new board shall be consulted prior to any action to waive, postpone, or modify development requirements of a contract for sale of agricultural land.

Section 21 amends existing statute, specifying that the new board shall be consulted prior to any action to adopt regulations specifying qualifications for lottery participants involving agricultural land disposal.

Section 22 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for the sale of agricultural land subject to state subdivision requirements and municipal ordinances.

It also adds a clause stating that money from a sale of agricultural land shall be accounted for separately and may be appropriated to the ARLF by the Legislature.

Section 23 amends existing statute, specifying that the new board shall be consulted prior to any action to provide for maximum interest rates, to declare a moratorium of up to five years on payments, to certify agreements with purchasers to perform development and expenditures during a moratorium, and to assure compliance with development plans during a moratorium.

Section 24 amends existing statute, specifying that the new board shall be consulted prior to any action granting an Alaska resident first option on auctioned agricultural land.

Section 25 amends existing statute to allow payments collected under this section to be appropriated to the ARLF.

Section 26 amends existing statute, specifying that the new board shall be consulted before the Director of the Division of Mining, Land, and Water disposes of any land designated as agricultural.

Section 27 amends existing statute, allowing payments received under this section to be accounted for separately and appropriated to the ARLF.

Section 28 amends existing statute specifying that the new board shall be consulted prior to any action to dispose of homestead entry land designated as agricultural.

Section 29 adds the new board to the list of boards defined in statute.

Section 30 *REPEALS* existing statutes which:

Define a duty of the ARLF Board,
Define limitations on ARLF Board members,
Place the ARLF Board in statute.

Section 31 outlines the transition process from existing boards to the new board.

Section 32 sets the effective date of this bill as July 1, 2000.

delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

This section and § 26 of this article mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

The quorum for a joint session of the legislature convened under Article III, §§ 25 and 26 of the Alaska Constitution is a majority of the members of the legislature, or 31 legislators from either house of the legislature. *Abood v. Gorsuch*, 703 P.2d 1158 (Alaska 1985).

Section 1, ch. 82, SLA 1975, is unconstitutional. — Section 1, ch. 82, SLA 1975, which amends AS 39.05.020 and purports to authorize legislative "meddling" in the exercise of an executive power, i.e., the appointment of executive officials, is unconstitutional because it is violative of separation of powers requirements. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Applied in *Larson v. State*, 564 P.2d 365 (Alaska 1977); *Buckalew v. Holloway*, 604 P.2d 240 (Alaska 1979); *Kerttula v. Abood*, 686 P.2d 1197 (Alaska 1984).

Section 26. Boards and Commissions. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

NOTES TO DECISIONS

Clear nature of provisions. — The provisions of this section and § 25 of this article are clear and unambiguous. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Vesting of powers of appointment and confirmation. — This section vests the power of appointment in the governor and the power to confirm in the legislature in joint session. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Removal is as provided by law. — Removal of board or commission members appointed under this section is as provided by law and, therefore, not necessarily at the governor's pleasure. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Confirmation is part of executive power of appointment. — Confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in some specific instances by constitution to the legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Limitation on legislative checks on governor's power to appoint. — The lack of ambiguity in this section and § 25 of this article mandate that this court interpret these express provisions as embodying not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the gov-

ernor's power to appoint subordinate executive officers. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

This section and § 25 of this article mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

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Appointment of members of Alaska State Mortgage Association. — This section does not govern the appointment of members of the Alaska State Mortgage Association. *Walker v. Alaska State Mtg. Ass'n*, 416 P.2d 245 (Alaska 1966).

Applied in *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980); *Kerttula v. Abood*, 686 P.2d 1197 (Alaska 1984).

Cited in *Ault v. Alaska State Mtg. Ass'n*, 387 P.2d 698 (Alaska 1963).

Collateral references. — 63A Am.Jur.2d, Public Officers and Employees, §§ 121 to 126.

67 C.J.S., Officers and Public Employees, § 44; 81A C.J.S., States, § 84.

Section 27. Recess Appointments. The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

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Citation/Title
File No. J-66-326-80

*7001 1980 WL 27561

Office of the Attorney General
State of Alaska

File No. J-66-326-80
January 4, 1980

Confirmation of members of boards and commissions

Honorable Jay S. Hammond
Governor

ATTN: Vicki A. Clayman
Special
Assistant to the Governor

Pursuant to your request, we are updating our memoranda of February 3 and 6, 1977, on this subject.

Under the Alaska Constitution, the only appointments which are and which can be subject to legislative confirmation are those prescribed by the constitution. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). Those consist of the heads of principal departments and the members of boards or commissions which are at the head of a principal department or a regulatory or quasi-judicial agency. Alaska Const., art. III, § 26.

Accordingly, as a matter of constitutional law in Alaska, appointments to boards or commissions are subject to legislative confirmation not on the basis of whether confirmation is required by a statute but on the basis of what the board or commission is and does. If the board or commission is at the head of a principal department, e.g., the Board of Education, its members are appointed subject to legislative confirmation. If the board regulates, e.g., the Public Utilities Commission, its members are subject to confirmation. If it adjudicates, e.g., the Workmen's Compensation Board, confirmation is required. On the other hand, if the board is not at the head of a principal department and its function is neither to regulate nor adjudicate, no confirmation is required, and a statute requiring confirmation is unconstitutional. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). Because of potentially adverse precedential effects, every effort must be made to ensure that no appointments are submitted for legislative confirmation except those required by the state constitution.

Agricultural Action Council, Alaska, AS 44.33.450. No confirmation is required.

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Agricultural Revolving Loan Fund Board, AS 03.10.050. No confirmation is required. While the statute requires confirmation, the board is neither regulatory nor quasi-judicial, and therefore, the statutory requirement is unconstitutional.

Architects, Engineers, & Land Surveyors, State Board of Registration for, AS 06.48.021. Confirmation is required. The statute does not require confirmation; however, this board regulates the profession of architects, engineers, and land surveyors and, under the constitution, appointment of its members must be confirmed.

Catastrophic Illness Committee, AS 47.06.020. No confirmation is required. The committee performs some quasi-judicial functions, but its main function is administrative.

Coastal Policy Council, Alaska, AS 44.19.891. No confirmation is required. The council's functions are principally administrative in nature.

Commercial Fishing & Agriculture Bank Board of Directors, AS 44.54.020. No confirmation is required.

Cultural Facilities, Advisory Council on, AS 44.33.100. No confirmation is required.

Educational Commission of the States, AS 14.40.730. No confirmation. This law was repealed by chapter 24, section 7, SLA 1979, and the commission no longer exists.

Emergency Medical Services, Advisory Council on, AS 18.08.020. No confirmation is required.

Employment Security Advisory Council, AS 23.20.025. No confirmation is required.

Forestry, Board of, AS 41.17.040. No confirmation is required.

Health Coordinating Council, Statewide, AS 18.17.011. No confirmation is required.

Medical Facilities Authority Board, Alaska, AS 18.26.030. No confirmation is required.

Oil & Gas Conservation Commission, AS 31.05.005. Requires confirmation. The statute refers to the commission as an 'independent quasi-judicial' agency. It is not, but it is an independent regulatory agency.

Power Authority, Alaska, AS 44.56.030. No confirmation is required. While the statute provides for confirmation, the APA is not at the head of a principal department and it is neither a regulatory nor quasi-judicial

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agency. Accordingly, the statute's requirement for confirmation is unconstitutional.

Public Broadcasting Commission, Alaska, AS 14.58.010. No confirmation required. The statute's provisions for confirmation are unconstitutional.

Renewable Resources Corporation Board of Trustees, Alaska, AS 37.12.030. No confirmation is required. The statute's provisions for confirmation are unconstitutional.

Science & Technology, Alaska Council on, AS 44.19.181. No confirmation is required. The statute's provisions for confirmation are unconstitutional.

Status of Women, Governor's Commission on, AS 44.19.958. No confirmation is required.

Water & Wastewater Works Advisory Board, AS by 46.30.020. No confirmation is required.

Wood-Tickchik State Park Management Council, AS 41.20.480(b). No confirmation is required.

*7002 We suggest that an alphabetical card file or other means be used to maintain a permanent record on the confirmation requirements of each of the boards and commissions in order to avoid future confusion or uncertainty.

Avrum M. Gross

Attorney General

Rodger W. Pegues

Assistant Attorney



Teleconference Update Summary

TCN: 10804

- Participants
- Announcements
- Notes
- Billing Information
- Final Statistics
- Summary
- Main Menu
- Search

Summary Data

TC Date: April 18, 2000	Moderator:
Time: 6:00 PM TO 8:00 PM	Toll Free Number: 800 368 8772
Status: In-Progress	Dial-up Number:
Sponsor: SFIN: FINANCE	Personal Number: 907 258 8772
Chairs: Parnell	Testimony Allowed: Yes
Torgerson	Time Limit: 5 minutes
Purpose: PUB	Backup Material: No
Contact: Darwin 4652138	Meeting ID: 73462
Public Remarks:	
Internal Comments: Other sites may add	

Agenda

Bill Number	Bill Subject
HB 58	OIL & GAS AUDITS
HB 116	BOARD OF AGRICULTURE AND CONSERVATION
HB 339	CFAB LOANS FOR TOURISM & NAT RESOURCES
HB 317	STATE EMPLOYEE HIRE AND PROMOTION

LIO Sites

Chair	Name	Room
<i>on line</i>	ANCHORAGE	
<i>on line</i>	FAIRBANKS	<i>1 person observing only</i>
<i>x</i>	JUNEAU	CAP532
<i>on line</i>	MATSU	<i>- 1 person HB116 - observing observing</i>

VTS Sites

Chair	Code	Name	Location	LIO
<i>on line</i>	GAK	GAKONA	JUNCTION VILLAGE -	GLN HB339

Off-net Sites

Chair	Code	Name	Location	Phone
online	OF1	Elizabeth Hickerson	<i>on line</i>	907 269-5208 <i>HB116</i>
	OF2	Susan Springer		907 234-7410
online	OF3	Cheryl Frasca	<i>- listening Anc available for questions</i>	<i>HB116 HCR 22</i>

Participants

Name	Type	Bill

fil