

SSA - 519 - SCR 1906

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COMMITTEE REPORT
SENATE

FURTHER: Judiciary

3/12/80

Date: March 17, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 519

use of limited entry permits as collateral for loans

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

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

MEMBERS SIGNING
DO PASS

Bob Mendenhall

MEMBERS HAVING
OTHER RECOMMENDATIONS:

PATRICK RODEY No Rec
Tim Kelly - No Rec
Brad Bradley No Rec

Bob Mendenhall
CHAIRMAN

(16) provide technical services to shareholders; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the shareholder to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter.

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of five years immediately preceding the date of application for the loan and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.54.230. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment added paragraph (20).

Sec. 44.54.220. Transition. Upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of this chapter lapse and the bank may proceed to operate as a private cooperative corporation under the terms of its bylaws and subject to the provisions of AS 10.15.005 — 10.15.600. (§ 3 ch 159 SLA 1978)

Sec. 44.54.230. Loans for purchase of Alaska limited entry permits.

(a) A loan under AS 44.54.210(20) for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the executive director of the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor,

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

(c) Upon satisfaction of the note by the debtor, the executive director shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 5 ch 53 SLA 1979)

Sec. 44.54.240. Default and foreclosure of loans for limited entry permits. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.54.230, the executive director of the bank shall provide the debtor, by registered or certified mail sent to his last known address on file with the bank, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the Alaska Commercial Fisheries Entry Commission;

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 90 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the executive director of the bank. (§ 5 ch 53 SLA 1979)

Sec. 44.54.250. Foreclosure.
 44.54.240, the Commercial permit is subject at a price equal to the bank director's offer.
 (b) If the commission, within 30 days after the date of the buy-back procedure, does not promptly notify the debtor by postmark date of the note. The permit shall be subject to AS 44.54.230(a).
 (c) If the debtor fails to pay the note under the permit, a qualified person may purchase the note subject to the Alaska Commercial Fisheries Entry Permit Commission's participation. The bank shall provide the qualifications for meeting all requirements.
 (d) Nothing in this section shall prevent the bank from foreclosing on a note if the debtor is in default and attorney fees are incurred.

Chapter 53

Section

- 10. Creation of
- 20. Membership
- 30. Officers and
- 40. Compensation
- 50. Staff
- 60. Legal counsel
- 70. Purpose of
- 80. General powers
- 90. Bonds of the
- 100. Submission of impact plans
- 110. Legislative
- 115. Nomination

44.54.240

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Sec. 44.54.250. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 44.54.240, the executive director of the bank shall offer the Alaska Commercial Fisheries Entry Commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the bank shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 44.54.230(a). If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The Alaska Commercial Fisheries Entry Commission shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.54.210(20). The executive director of the bank shall then determine, in order of presentation, any remaining qualifications. The executive director shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the executive director of the bank to institute legal action for a deficiency resulting from a default on a note given under AS 44.54.230. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees. (§ 5 ch 53 SLA 1979)

Chapter 55. Alaska Gas Pipeline Financing Authority.

Section	Section
10. Creation of authority	120. Trust indentures and trust agreements
20. Membership	130. Nonliability on bonds
30. Officers and quorum	140. Pledge of the state
40. Compensation	150. Exemption from taxation
50. Staff	160. Bonds legal investments for fiduciaries
60. Legal counsel	170. Regulations
70. Purpose of authority	180. Annual audit
80. General powers	190. Annual report
90. Bonds of the authority	200. Definitions
100. Submission of financial and Alaska impact plan	
110. Legislative approval	
115. Nomination of a member of the board	

HOUSECLEANING

SB 519

An Act relating to the use of limited entry permits as collateral for loans

By State Affairs

Summary

Existing statutes under the Commercial Fishing and Agriculture Bank allow the use of entry permits as collateral for state loans.

However, this is not presently allowed under AS 16.43, "Terms and conditions of entry permit"--so a conflict exists between the statutes. ^{SECTION ONE OF} This bill would amend AS 16.43 to allow the use of permits as collateral for loans from the Commercial Fishing and Agriculture Bank, so the statutes would not conflict.

To Resolve this

Section 2 would allow the transfer of a permit by the Bank in the event of foreclosure of a loan, which would again resolve the conflict between the statutes under AS 16.43 and AS 44.54.

44.51.250 In the event of foreclosure, the Bank shall offer the Entry Commission the right of first refusal. If the Commission doesn't exercise the right, the debtor may nominate a person qualified to assume the note. If the debtor is unable to nominate a qualified person, the Entry Commission shall provide the bank with a list of qualified applicants, and the bank shall allow the first applicant meeting the qualifications to assume the note.

Summary

Amends statutes concerning "Fish and Game, Regulation of Entry into Alaska Commercial Fisheries, Terms and conditions of entry permit; annual renewal" to provide for the use of entry permits as collateral for loans^{as already provided} under existing statutes AS 44.54.230-44.54.250.

The section dealing with "Transfer of entry permits" under the same chapter is also amended to provide for the transfer of entry permits in the event of foreclosure of a loan^{as already provided} under AS 44.54.230-44.54.250.

Background

This bill appears to be simply a house-cleaning measure to bring statutes under AS 16.43 into compliance with existing statutes under AS 44.54 ("State Government, Commercial Fishing and Agriculture Bank").

Statutes under AS 44.54.230-44.54.250 discuss state loans through the Commercial Fishing and Agriculture Bank for purchase of limited entry permits. They include provisions for using permits as collateral for such loans. This bill would make this use of permits as collateral consistent with statutes under AS 16.43.150 and AS 16.43.170.

March 13, 1980

SB 519 An Act relating to the use of limited entry permits
as collateral for loans.

SUMMARY:

Statutes under AS 16.43 state that an entry permit may not be pledged, mortgaged, leased, or in any way encumbered and may not be transferred with any right of repossession or foreclosure. Statutes under AS 44.54.230 - 44.54.250 allow the use of an entry permit as collateral for a state loan from the Commercial Fishing and Agriculture Bank, and provide for the transfer of the permit in the event of foreclosure. This bill would amend the statutes under AS 16.43 to comply with the existing statutes under AS 44.54

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COMMITTEE REPORT
SENATE

FURTHER: Finance

3/12/80

Date: MARCH 24, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 521
Alaska Commercial Fishing and Agriculture Bank

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 521 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Mulcahy
Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS:

PATRICK ROBERTS
Zyglis

Bob Mulcahy
CHAIRMAN

Definition in 521 - Shareholder to include members still public

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State
Affairs

According to Ken Vassar, the Legislative Counsel who drafted this bill, the definition of "shareholder" in Section 13 of this bill raises some questions. The bank is subject to statutes pertaining to cooperatives (AS 10.15.005 - 10.15.600) except as otherwise provided in AS 44.54, and members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). However, this bill would define "shareholder", for the purposes of the bank, as including members.

He suggests that "it might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54 relating to loans. The method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended."

Prop on 44.54.210 (1) used word shareholder - intent to member

Amendments recommended by Ken Vassar

§ 44.54.010

ALASKA STATUTES SUPPLEMENT

§ 44.54.020

Sec. 44.54.010. Commercial Fishing and Agriculture Bank. (a) There is established the Alaska Commercial Fishing and Agriculture Bank. The bank is a public corporation and government instrumentality in the Department of Commerce and Economic Development but has a legal existence independent of and separate from the state. The exercise by the bank of the powers conferred by this chapter is considered an essential governmental function of the state. Except as otherwise provided in this chapter, the bank is subject to the provisions of AS 10.15.005 — 10.15.600.

(b) For the purpose of the initial funding of the bank's operations, the board of directors shall issue nonvoting, preferred shares of stock in the bank and shall determine the value of each share. The State of Alaska, through appropriate agencies, shall purchase the nonvoting, preferred shares initially issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years, the commissioner of commerce and economic development may dissolve the bank.

(c) After the board of directors has completed the necessary organizational matters described in §§ 30 and 40 of this chapter, the commissioner of revenue may purchase with funds from the general fund up to \$2,000,000 of preferred stock of the bank during fiscal year 1979 at such time and with terms agreed upon by the commissioner and the board. (§ 3 ch 159 SLA 1978; am § 1 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment inserted "Alaska" in the first sentence of subsection (a).

Sec. 44.54.020. Board of directors. (a) The bank shall be managed by a board of directors consisting of seven members. At least one member of the board shall be an Alaska farmer with at least 10 years of Alaska farm experience. Initial appointments to the board shall be made by the governor. Two of the initial appointments shall be made at the time of the first annual membership meeting of the bank. Thereafter, five board members shall be elected by the shareholders, with at least one of the elected board members being an Alaska farmer with at least 10 years of Alaskan farm experience, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the shareholders. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank.

(b) The governor shall designate the two members whose positions on the board will remain appointive for the period set out in (a) of this section. (§ 3 ch 159 SLA 1978; am § 2 ch 53 SLA 1979)

Delete "shareholders" insert "members of the bank."

§ 44.54.030

Effect of amendment designating this section as subsection, substitute for "five members" "board members" and insert "board members" sentence, and beginning "with at least one board members" at

Sec. 44.54.030. 1, 1978, the board of commerce and economic development provided in AS 10.15.005 waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws of the bank shall be adopted by the board of directors. The board of directors may amend the bylaws of the bank provided the regulation is not inconsistent with the provisions of this chapter. (AS 10.15.005 1978)

Sec. 44.54.050. Upon incorporation, the commissioner of commerce and economic development may hold public hearings explaining to members the functions of the bank. (AS 10.15.005 ch 159 SLA 1978)

Sec. 44.54.060. The board of directors may issue shares of stock in the bank and shall determine the value of such shares at the time of incorporation.

(b) Loans made to the bank under this chapter shall be subject to the provisions adopted by the board of directors. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. The board of directors may hire and determine the compensation of an executive director of the bank.

(b) The executive director may hire and determine the compensation of an efficient performance

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Delete "shareholders" insert "members"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1980

SUBJECT: Commercial Fishing and Agriculture Bank
(Work Order Number 8171)

TO: Senator Clem V. Tillion

FROM: Kenneth E. Vassar
Legislative Counsel *K.E.V.*

Enclosed is the bill you requested amending various provisions of the statutes relating to the Commercial Fishing and Agriculture Bank. One of the provisions being added by this bill, the definition of "shareholder" in sec. 44.54.-260(3), raises some questions. I do not know what its intended effect is. The bank is subject to AS 10.15.005 - 10.15.600 except as otherwise provided in AS 44.54. The provisions of AS 10.15.005 - 10.15.600 relate to the functions of cooperative corporations, and AS 10.15.595(9) and (11) define "member" and "shareholder". This bill would define "shareholder", for the purposes of the bank, as including members. Members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). Thus, this departs from the general provisions relating to cooperative corporations.

I would guess that this intended to cure an apparent mistake in AS 44.54.210(1). That paragraph allows the bank to make loans to "shareholders". The intent, of course, was for the bank to be able to make loans to members, but since members are excluded from the definition of "shareholder" under AS 10.15.595, that intent is frustrated by the use of the word "shareholder". If this is intended to cure that mistake, it might be more appropriate to delete the word "shareholder" and insert the word "member" in those parts of AS 44.54 relating to loans. The method used in this bill of defining "shareholder" to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 5, 1980

SUBJECT: Commercial Fishing and Agriculture Bank
(Work Order Number 8171)

TO: Senator Clem V. Tillion

FROM: Kenneth E. Vassar
Legislative Counsel *KEV*

Enclosed is the bill you requested amending various provisions of the statutes relating to the Commercial Fishing and Agriculture Bank. One of the provisions being added by this bill, the definition of "shareholder" in sec. 44.54.-260(3), raises some questions. I do not know what its intended effect is. The bank is subject to AS 10.15.005 - 10.15.600 except as otherwise provided in AS 44.54. The provisions of AS 10.15.005 - 10.15.600 relate to the functions of cooperative corporations, and AS 10.15.595(9) and (11) define "member" and "shareholder". This bill would define "shareholder", for the purposes of the bank, as including members. Members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). Thus, this departs from the general provisions relating to cooperative corporations.

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Senator Clem V. Tillion
Page 2
March 5, 1980

I also want to notify you that this bill does not include a provision similar to that on page 3 of the rough draft you delivered with your request which states:

The foregoing right of indemnification shall not be exclusive of other rights to which any director, officer or employee may be entitled as a matter of law.

Since I was unable to determine what it meant, I have left it out of this draft; however, I will be happy to meet with you to try to determine what it means and how it can be restated in a more understandable manner.

KEV:ljb

Enclosure

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

- (a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.
- (b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.
- (c) President may hire employees, may contract for advisors.

Section 2: AS 44.54.150 (a). NONLIABILITY ON BONDS. Amended to change executive director to president regarding non-liability.

Section 3: AS 44.54.210 (1). POWERS OF THE BANK. Amended to allow bank to make loans to commercial agriculture or fishing } suppliers. Deletes 'primarily' from: "Bank may make loans to... corporations, partnerships, or joint ventures (primarily) involved in commercial agriculture or fishing."

Why

Section 4: AS 44.54.210 Amended by adding a new paragraph.
(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Idem to others

Section 5: AS 44.54.210 Amended by adding a new subsection.
(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.

Why

(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

- Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.
- Section 8: AS 44.54.230 (c). Provides that the bank, rather than the executive director, must certify that a note has been satisfied.
- Section 9: AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS.
(a) Amended to provide that bank, rather than executive director, shall give notice of default. Changes 'Commercial Fisheries Entry Commission' to 'Commission'.
(b) Provides bank, rather than executive director, shall send a copy of notice of default to the commission.
- Section 10: AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.
(a) Amended by providing that bank, rather than executive director, shall offer the commission first refusal on a foreclosed permit. Changes 'Commercial Fisheries Entry Commission' to 'commission'.
- Section 11: AS 44.54.250 (c). Changes 'Commercial Fisheries Entry Commission' to 'Commission'. Provides that bank, rather than executive director, shall transfer a note after foreclosure.
- Section 12: AS 44.54.250 (d). Provides that bank, rather than executive director, may institute legal action for a deficiency resulting in a default.
- Section 13: AS 44.54 is amended by adding a new section.
AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

April 2, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs

SECTIONAL ANALYSIS OF CHANGES IN CSSB 521:

- SECTION 1 : AS 44.54.020. BOARD OF DIRECTORS. (a) is amended to provide for the election of board members by members of the bank (deletes "shareholders").
- SECTION 2 : AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members (deletes "shareholders") of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership shares.
- SECTION 3 : AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this subsection are not required to be members of the board of directors.
- SECTION 5 : AS 44.54.210. POWERS OF THE BANK. (1) is amended to provide that the bank may make a loan to a qualified member (deletes "shareholder") of the bank.
- SECTION 6 : AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank (deletes "shareholders"); for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member (deletes "shareholder") to obtain financial assistance from the bank.



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 521 (Cont.)

SECTION 16 : AS 44.54.200 DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a portion of the bank with retained patronage earnings of \$2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods and services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

("(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit." is deleted.)

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

- (a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.
- (b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.
- (c) President may hire employees, may contract for advisors.

Section 2: AS 44.54.150 (a). NONLIABILITY ON BONDS. Amended to change executive director to president regarding non-liability.

Section 3: AS 44.54.210 (1). POWERS OF THE BANK. Amended to allow bank to make loans to commercial agriculture or fishing suppliers. Deletes 'primarily' from: "Bank may make loans to... corporations, partnerships, or joint ventures (primarily) involved in commercial agriculture or fishing."

Section 4: AS 44.54.210 Amended by adding a new paragraph.
(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Section 5: AS 44.54.210 Amended by adding a new subsection.
(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.
(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

- Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.
- Section 8: AS 44.54.230 (c). Provides that the bank, rather than the executive director, must certify that a note has been satisfied.
- Section 9: AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS.
(a) Amended to provide that bank, rather than executive director, shall give notice of default. Changes 'Commercial Fisheries Entry Commission' to 'Commission'.
(b) Provides bank, rather than executive director, shall send a copy of notice of default to the commission.
- Section 10: AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.
(a) Amended by providing that bank, rather than executive director, shall offer the commission first refusal on a foreclosed permit. Changes 'Commercial Fisheries Entry Commission' to 'commission'.
- Section 11: AS 44.54.250 (c). Changes 'Commercial Fisheries Entry Commission' to 'Commission'. Provides that bank, rather than executive director, shall transfer a note after foreclosure.
- Section 12: AS 44.54.250 (d). Provides that bank, rather than executive director, may institute legal action for a deficiency resulting in a default.
- Section 13: AS 44.54 is amended by adding a new section.
AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".

Alaska Commercial Fishing and Agriculture Bank

The Commercial Fishing and Agriculture Bank was established in 1979 and is scheduled to start conducting Business on April 2, 1980. It is organized as a public corporation and government instrumentality within DOCED, but it has a legal existence independent of and separate from the state. The bank will operate along the lines of a cooperative, and is subject to the statutes governing cooperatives. As with other cooperatives, borrowing from the Bank is contingent on membership in the Bank. When someone receives a loan from the Bank, he must purchase membership stock in the Bank for an amount equal to 10% of the loan. This provides additional working capital that the Bank can reloan.

The Bank received its initial funding from an appropriation for \$2 million. The chairman of the Bank, Frank Homan, estimates that about \$30 million in capital is needed by the Bank. The state has offered to loan \$30 million at 9.5% interest, and the papers have just been signed (March 14, 1980) for the first \$15 million installment. The remaining \$15 million will be loaned to the Bank this fall. In addition, the Federal Farm Credit System will be providing funds to the Bank at a 6 or 7 to 1 leverage ratio. The Bank plans to repurchase all the nonvoting preferred shares from the state within 20 years, so it ultimately will be completely divorced from the state.

Loans made by the Bank will be at the interest rate charged to the Bank plus a 2% service charge. There is a tentative ceiling of 20% of the Capital in the Bank to any one borrower.

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State Affairs

Main points of this bill are:

- 1) Renaming of executive director's position to become president (to conform with the organization of banks). Provides for appointment of vice-presidents, secretary, treasurer, and other necessary officers.
- 2) Conveyance of certain powers and duties now held by executive director to the bank as a whole
- 3) Indemnification of directors, officers, and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties (conforms with 'cooperatives' statutes)
- 4) Enables bank to make loans to residents who are engaged in commercial fishing and agriculture who are "suppliers" (for example, shipyards).
- 5) Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes.

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs Committee

Basically, this bill does the following:

1. Renames the executive director's position to become president (to conform with the organization of banks). Provides for the appointment of vice-presidents, secretary, treasurer and other necessary officers.
2. Conveys certain powers and duties now held by the ~~executive~~ director to the bank as a whole. EXECUTIVE
3. Indemnifies directors, officers and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties (conforms with cooperatives' statutes, see attached). DOES NOT INCLUDE NEGLIGENCE OR MISCONDUCT IN PERFORMANCE OF DUTIES.
4. Enables bank to make loans to residents who ^{are} engaged in commercial fishing or agriculture who are "suppliers" (for example: shipyards).
5. Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes. Defines "bank", "commission" and "shareholder".

The Commercial Fishing and Agriculture bank supports this bill and helped in the drafting of it. The bank has received interest from shipyards desiring to participate in the program, hence the addition of "suppliers" to those who may receive loans from the Bank. (Suppliers is not defined in the legislation, however, and without knowing the intent, it might be too vague of a term. Perhaps should be defined.)

- REQUESTED
4
THEY ASSISTED

SB 521

An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

By State Affairs.

Summary

Main points of this bill are:

- 1) Reorganization of administrative branch of Commercial Fishing and Agriculture Bank. Eliminates executive director's position - provides for employment of a president as the chief executive officer of the bank.
- 2) Conveyance of certain powers and duties now held by executive director to the bank as a whole.
- 3) Indemnification of directors, officers and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties.
- 4) Enables bank to make loans to ~~individual~~ residents engaged in commercial fishing or agriculture who are "suppliers" (for example, shipyards)
- 5) Adds definitions section to define "bank", "commission" and "shareholder"

Background

Commercial Fishing and Agriculture Bank supports this bill - they assisted in the drafting of it. The Bank has received interest from shipyards desiring to participate in this program, hence the addition of "suppliers" to those who may receive loans from the Bank ("suppliers" is not defined in the legislation, however, and without knowing the intent might be too vague of a term).

Ken Vassar, the Legislative Counsel who drafted this bill, has

problems with the definition of "shareholder" included in the bill.

"This bill ~~would define~~ would define 'shareholder', for the purposes of the bank, as including members. However, this departs from the general provisions relating to cooperative corporations, under which the Bank is organized and which specifically exempt members from the definition of 'shareholder'. According to Vassar, "the method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended. It might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54. relating to loans."

titles more recognizable

more flexibility in hiring people

change shareholder to 'member' or 'member of the bank'

44.54.020 (a) ✓

.060 (b) ✓

.210 (1) ✓

.210 (16) ✓

shareholder def. deleted.

CS SB 521

An Act relating to the Alaska Commercial Bank; and providing for an effective date. By State Affairs

Sectional Analysis of Changes in CSB 521

Section 1

AS 44.54.020. BOARD OF DIRECTORS. (a) is amended to provide for the election of board members by members of the bank [~~shareholders~~ ^{deletes} "shareholders"].

Section 2

AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members [~~shareholders~~ "shareholders"] of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership ~~the~~ shares.

Section 3

AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this ~~section~~ ^{subsection} are not required to be members of the board of directors.

Section 5

AS 44.54.210. ~~(a)~~ POWERS OF THE BANK. (i) is amended to provide that the bank may make loans to qualified member [~~shareholder~~ "shareholder"] of the bank.

Section 6

AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank [deletes ~~fish~~ "shareholders"]; for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member [deletes "shareholder"] to obtain financial assistance from the bank.

Section 16

AS 44.54.260. DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods or services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

[deletes "(5) 'shareholder' includes a
"(3) 'supplier'"]

["(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of \$2,500 or more to his credit." is deleted]

Summary

Amends or re-enacts numerous statutes under AS 44.54 (State Government, Alaska Commercial Fishing and Agriculture Bank).

Statute dealing with organization of the administrative branch of the bank (44.54.070) is repealed and re-enacted to read "President; officers and employees". Provides for the employment of a president by the bank's board of directors. Board shall also appoint one or more vice-presidents, a secretary, a treasurer and other necessary officers. One person may be appointed to more than one position. President may hire employees of the bank and may contract for advisors. Present statute ("Executive director, staff") specifies that the board may hire an executive director who may hire staff. Wording in the chapter is changed to reflect that the president rather than the executive director is the chief executive of the bank.

Numerous statutes are amended to provide that powers and responsibilities now given to the executive director would be conveyed to the bank as a whole. These powers and responsibilities are primarily in regard to loans for purchase of limited entry permits. Bank would be given:

- 1) Legal ownership of entry permits pledged as security for a loan (Sec 7)
- 2) Responsibility for certification of repayment of debt for which permit is pledged as security (Sec. 8)
- 3) Responsibility for notifying debtor of default on loan for limited entry permit (Sec. 9)
- 4) Bank would decide who gets permit in event of foreclosure of loan for limited entry permit (Sec. 11)
- 5) Bank has the right to institute legal action from default of a loan for a limited entry permit. (Sec. 12)

Statute concerning powers of the bank (44.54.210) is amended to allow the bank to make loans to "individuals who are residents and who are engaged in commercial agriculture or fishing, including suppliers or to corporations, partnerships or joint ventures ("primarily" is deleted) engaged in commercial fishing or agriculture."

Powers of the bank statute is also amended by adding a new paragraph providing that the bank may indemnify a director, officer or employee of the bank and his heirs, administrators, and executors against all liabilities and related expenses arising from a proceeding brought against him because of an act or omission in the performance of his official duties. This is regardless of whether he is director, officer or employee at the time the expenses are incurred. A new subsection added to the same statute also provides that the bank is not authorized to indemnify a director, officer, or employee who is adjudged liable for negligence or misconduct in the performance of his official duties.

A definitions section is added to this chapter to define "bank", "commission" and "shareholder".

Takes effect immediately

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present

fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

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§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

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(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

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§ 10.15.010 CORPORATIONS AND ASSOCIATIONS § 10.15.010

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- (4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold; improve, use and otherwise deal in, real or personal property, wherever situated;
- (5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;
- (6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;
- (7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;
- (8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;
- (9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;
- (10) elect or appoint officers and agents, and define their duties and fix their compensation;
- (11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;
- (12) donate for the public welfare or for charitable, scientific or educational purposes;
- (13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;
- (14) cease its activities and surrender its franchise;
- (15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

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Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Introduced: 3/12/80
Referred: State Affairs
and Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 521

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Commercial Fishing and
7 Agriculture Bank; and providing for an effective date."

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

9 * Section 1. AS 44.54.070 is repealed and re-enacted to read:

10 Sec. 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (a) The board
11 of directors shall employ a president. The president may not be a
12 member of the board of directors. The president serves at the pleasure
13 of the board of directors. The president is the chief executive officer
14 of the bank.

15 (b) The board of directors shall appoint one or more vice-presi-
16 dents, as prescribed in the bylaws of the bank, a secretary, a treasurer
17 and other officers, as the board of directors considers necessary. The
18 board of directors may appoint ^{(none of whom need be directors) - insert} one person to more than one of the posi-
19 tions described in this subsection.

20 (c) The president may hire employees of the bank reasonably neces-
21 sary for the efficient performance of the functions of the bank. Sub-
22 ject to the approval of the board of directors, the president may also
23 contract for and engage the services of professional and technical
24 advisors. The board of directors shall prescribe the duties and com-
25 pensation of employees of the bank.

26 * Sec. 2. AS 44.54.150(a) is amended to read:

27 (a) Neither the members of the board of directors, the president
28 [EXECUTIVE DIRECTOR], staff, nor a person executing the bonds is liable
29 personally on the bonds or subject to personal liability or account-

1 ability by reason of the issuance of the bonds.

2 * Sec. 3. AS 44.54.210(1) is amended to read:

3 (1) make variable rate or fixed rate loans to individuals who
4 are residents and who are engaged in commercial agriculture or fishing,
5 including harvesters, processors, suppliers and marketers, or to cor-
6 porations, partnerships or joint ventures [PRIMARILY] engaged in com-
7 mercial agriculture or fishing, the majority interest of which is bene-
8 ficially owned by residents of the state and a majority of the owners of
9 which are residents of the state, if the recipient of the loan is a
10 shareholder of the bank; however, the bank may make a loan under this
11 paragraph to a corporation, partnership, or joint venture for the pur-
12 chase of a new or existing fishing vessel or for the repair or renova-
13 tion of an existing fishing vessel, the primary purpose of which is to
14 commercially harvest fishery resources, only if the corporation, partner-
15 ship, or joint venture is wholly owned and controlled by residents of
16 the state and if the recipient of the loan is a shareholder of the bank.

17 * Sec. 4. AS 44.54.210 is amended by adding a new paragraph to read:

18 (21) indemnify a director, officer or employee of the bank and
19 his heirs, executors and administrators against all liabilities and
20 related expenses including, but not limited to, court costs and attorney
21 fees, judgments, and the cost of reasonable settlements, incurred by him
22 in connection with or arising out of an action or proceeding brought
23 against him because of an act or omission in the performance of his
24 official duties as director, officer or employee of the bank regardless
25 of whether he is a director, officer or employee at the time the ex-
26 penses or liabilities are incurred.

27 * Sec. 5. AS 44.54.210 is amended by adding a new subsection to read:

28 (b) The provisions of (a)(21) of this section do not authorize the
29 bank to indemnify a director, officer or employee of the bank who is

1 adjudged liable for negligence or misconduct in the performance of his
2 official duties.

3 * Sec. 6. AS 44.54.230(a) is amended to read:

4 (a) A loan under AS 44.54.210(20) for the purchase of a limited
5 entry permit may be made only upon certification by the commission
6 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION (AS 16.43.020)] that the
7 fisherman is a person who qualifies as a transferee for the permit under
8 AS 16.43 and the regulations adopted by the commission.

9 * Sec. 7. AS 44.54.230(b) is amended to read:

10 (b) Upon approval by the bank, the permit to be purchased may be
11 pledged as security for a loan under (a) of this section, if

12 (1) the certificate for the pledged permit lists [THE EXECU-
13 TIVE DIRECTOR OF] the bank as the legal owner of the permit;

14 (2) the certificate for the pledged permit lists the debtor
15 as the equitable owner of the permit;

16 (3) all annual permit cards issued under the pledged permit
17 list the name of the debtor;

18 (4) all obligations and responsibilities of a permit owner
19 are assumed by the debtor;

20 (5) co-signers or other sureties for performance under the
21 note are not vested with any rights in the pledged permit and their
22 obligation is limited to satisfaction of the note and payment of costs
23 directly incurred by the bank in administering the loan.

24 * Sec. 8. AS 44.54.230(c) is amended to read:

25 (c) Upon satisfaction of the note by the debtor, the bank [EXECU-
26 TIVE DIRECTOR] shall certify to the commission that the note has been
27 satisfied.

28 * Sec. 9. AS 44.54.240 is amended to read:

29 Sec. 44.54.240. DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY

1 PERMITS. (a) If the debtor defaults upon a note for which a limited
2 entry permit has been pledged as security under AS 44.54.230, [THE
3 EXECUTIVE DIRECTOR OF] the bank shall provide the debtor, by registered
4 or certified mail sent to his last known address on file with the bank,
5 with a notice of default which includes

6 (1) a description of the security given for the note including
7 the number assigned to the pledged permit by the commission [ALASKA
8 COMMERCIAL FISHERIES ENTRY COMMISSION];

9 (2) the date upon which the default occurred;

10 (3) the amount of arrearages as of the date of the notice,
11 the total amount remaining on the note less unearned interest, and the
12 amount of daily interest;

13 (4) a statement that the debtor may, within 15 days of the
14 postmark date of the notice, request a hearing at which he may submit
15 evidence showing he has not defaulted;

16 (5) a statement that the note may be reinstated if brought
17 current within 60 days from the postmark date of the notice;

18 (6) a statement that the note may be paid in full less un-
19 earned interest within 90 days from the postmark date of the notice;

20 (7) the place where reinstatement or payment in full may be
21 made; and

22 (8) a notice in at least 10-point bold type stating: "IMPOR-
23 TANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE
24 SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND
25 THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

26 (b) Upon the debtor's failure to reinstate or satisfy the note
27 within the time specified in (a) of this section, his equitable interest
28 is terminated by operation of law without further notice. Any entry
29 permit cards issued to him under the permit shall be cancelled immedi-

1 ately upon receipt by the commission of a certificate of termination
2 containing a copy of the notice required by (a) of this section issued
3 by [THE EXECUTIVE DIRECTOR OF] the bank.

4 * Sec. 10. AS 44.54.250(a) is amended to read:

5 (a) Upon a foreclosure on an entry permit as provided in AS 44.54.-
6 240, [THE EXECUTIVE DIRECTOR OF] the bank shall offer the commission
7 [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] a right of first refusal
8 if the permit is subject to a buy-back program under AS 16.43.290 -
9 16.43.330 at a price equal to the amount outstanding on the note plus
10 any costs the bank directly incurred in administering the loan.

11 * Sec. 11. AS 44.54.250(c) is amended to read:

12 (c) If the debtor is unable to nominate a qualified person to
13 assume the note under (b) of this section, the permit must be made
14 available to a qualified person, chosen as provided in this section, who
15 shall assume the note subject to all rights and liabilities of the
16 original debtor. The commission [ALASKA COMMERCIAL FISHERIES ENTRY
17 COMMISSION] shall provide the bank with a list of persons chosen by
18 lottery who qualify as transferees of entry permits under AS 16.43 and
19 regulations adopted by the commission and who have met the residency and
20 commercial fishing participation requirements of AS 44.54.210(20). The
21 [EXECUTIVE DIRECTOR OF THE] bank shall then determine, in order of
22 presentation, any remaining qualifications. The bank [EXECUTIVE DIREC-
23 TOR] shall allow the first applicant meeting all qualifications to
24 assume the note.

25 * Sec. 12. AS 44.54.250(d) is amended to read:

26 (d) Nothing in this section affects the right of [THE EXECUTIVE
27 DIRECTOR OF] the bank to institute legal action for a deficiency result-
28 ing from a default on a note given under AS 44.54.230. In addition to
29 any deficiency, the debtor is liable for the costs of administering the

1 note and for costs and attorney fees.

2 * Sec. 13. AS 44.54 is amended by adding a new section to read:

3 Sec. 44.54.260. DEFINITIONS. In this chapter

4 (1) "bank" means the Alaska Commercial Fishing and Agricul-
5 ture Bank;

6 (2) "commission" means the Alaska Commercial Fisheries Entry
7 Commission (AS 16.43.020);

8 (3) "shareholder" includes a holder of a share of membership
9 stock of the bank, a holder of a share of capital stock of the bank, or
10 a patron of the bank with retained patronage earnings of \$2,500 or more
11 to his credit.

12 * Sec. 14. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

SCR
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SCR 1

Relating to the transferral of state
employment positions from urban areas
to rural areas.

Sumner

SUMMARY

This resolution requests the Governor to direct the appropriate state departments to conduct a study on the feasibility of transferring state employment positions from urban to rural areas. The study is to be presented to the second session of the 11th legislature by February 1, 1980.

FISCAL NOTE: Requested 1/31/79 from the Office of the Governor.
Expected by

SUPPORTING INFORMATION

This was SCR 82 last session. It died in Senate Labor and Management Committee. This bill and other legislation relating to jobs all came out of a Job Symposium held by Sumner in 1977. The main backing of this bill, according to Sumner's office, is that state operations have been centralized in urban areas with no apparent necessity. There are many jobs that could be performed in rural areas without affecting the efficiency of duty performance, and providing employment in ~~rural areas~~ where it is greatly needed. (See example in attached statement from Sumner's office). Sumner will testify.

RELATED LEGISLATION:

INTERESTED PARTIES: Sen. Sumner
Office of the Governor

FROM SUMNER'S OFFICE
2/1/79

SCR 1

JOB TRANSFER

Senate Concurrent
Resolution 82
Senate Bill 537

Government is the major employer in the state. The state's operations have been centralized in urban areas -- with no apparent necessity. Permanent state employees are distributed throughout the state as follows:

20%	Juneau
36%	Anchorage
12%	Fairbanks
2%	Ketchikan
2%	Sitka
2%	Palmer
4%	Valdez
1½%	Nome
12%	scattered

During a committee meeting following the Jobs Symposium, Commissioner of Revenue Sterling Gallagher pointed out that his department needed a processing center for state tax returns. Following present state trends, the center would automatically be planned for an urban area even though a center could be located in a rural area without affecting the efficiency with which the duties are performed. The result would be jobs for Alaskans in an area where they are most needed.

The committee introduced Senate Concurrent Resolution 82. The resolution requested the Governor to direct the appropriate departments to conduct a study to answer these two questions:

1) Which state positions could be transferred from Juneau, Anchorage and Fairbanks, to the more rural areas without affecting performance in the positions; and

2) which areas of the state would be most suitable for the transferral of state positions in terms of existing facilities and resources.

No action was taken on the resolution by the Senate Labor and Management Committee and it will be re-introduced during the 11th Legislature.

The committee also introduced Senate Bill 537 which requested a \$10,000 special appropriation to the Department of Revenue for a positions relocation feasibility study. The bill passed the Employment Resources and Opportunities Committee but no action was taken by the Senate Finance Committee.

Introduced: 1/18/79
Referred: State Affairs

1 IN THE SENATE

BY SUMNER

2 SENATE CONCURRENT RESOLUTION NO. 1

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Relating to the transferral of state
6 employment positions from urban areas
7 to rural areas.

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

9 WHEREAS unemployment is a problem which afflicts and has afflicted the
10 rural communities of the state more seriously than the more populated areas;
11 and

12 WHEREAS the state government is one of the leading providers of jobs in
13 Alaska; and

14 WHEREAS many positions in state government which are located in the high
15 population areas of the state could be performed in rural areas without
16 affecting the efficiency with which the duties of those positions can be
17 performed; and

18 WHEREAS the transferral of these positions into the rural areas of the
19 state would benefit the state by creating more employment positions where
20 they are most needed;

21 BE IT RESOLVED by the Alaska State Legislature that the Governor is
22 respectfully requested to direct the appropriate departments of the executive
23 branch of the state government to conduct a study to answer the following
24 questions:

25 (1) Which state employment positions could be transferred from
26 Juneau, Anchorage, and Fairbanks to the more rural areas of the state without
27 affecting efficiency of performance in the positions?

28 (2) Which areas of the state would be most suitable for the trans-
29 ferral of state positions in terms of existing facilities and resources?

1 (3) Which areas of the state would be most benefited by the trans-
2 ferral of state positions in terms of existing unemployment conditions?

3 (4) What financial considerations might be relevant in terms of
4 costs for facilities, transportation of personnel, and benefits to local
5 governmental units?

6 (5) What other considerations, problems, and alternatives might be
7 relevant to the initiation of a program of position transferral? and be it

8 FURTHER RESOLVED that the results of the study shall be presented to the
9 Second Session - Eleventh Legislature no later than February 1, 1980.

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Friday

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[Let to the Comm.]
Ren School

SCR

2

SCR 2

Relating to employment of persons
in permanent part time positions
in state government

Sumner

In Resources

This passed committee while Kelly was chairman with
four "do passes" (Rodey, Bradley, Kelly, Ziegler)

This resolution urges the Governor and heads of all state
agencies to hire as many permanent part time employees as is
practicable.

Attached: 1) Bill
 2) Staff Summary
 3) Minutes

Introduced: 1/18/79
Referred: State Affairs

1 IN THE SENATE

BY SUMNER

2 SENATE CONCURRENT RESOLUTION NO. 2
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Relating to the employment of persons in
6 permanent part-time positions in state
7 government.

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

9 WHEREAS unemployment in the state is traditionally high, especially in
10 the rural areas of the state; and

11 WHEREAS a contributing factor to the high rate of rural unemployment
12 is the engagement of many rural citizens in traditional subsistence hunting
13 and fishing activities which makes them unavailable on a year-round basis for
14 many state employment opportunities; and

15 WHEREAS AS 39.25.15C(24) requires that the state's personnel rules
16 provide for the employment of persons in permanent part-time positions in
17 order to enable two persons to fill one permanent full-time position; and

18 WHEREAS there is an apparent reluctance on the part of many state
19 agencies to utilize the permanent part-time employees in order to increase
20 employment opportunities for the citizens of the state;

21 BE IT RESOLVED by the Alaska State Legislature that the Governor and the
22 heads of all state agencies are respectfully requested to urge the hiring of
23 as many persons as is practicable in the classification of permanent part-
24 time employees of the state so as to encourage the concept of job sharing in
25 state government.

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SCR 2 Relating to the employment of persons SUMNER
on permanent part time positions

SUMMARY

This was SCR 76 last year. It died in the Senate Labor and Management Committee.

The current law 39.25 150(24) does provide for the employment of persons in permanent part time positions so that two people can fill one fulltime position.

Out of 7321 permanent positions, 90 were permanent part time. (As of December 1978)

This resolution urges the Governor and heads of all state agencies to hire as many permanent part time employees as is practicable.

SUPPORTING INFORMATION

Concurring Kodiak Constituents.

Talked to Gil Jarvella with the Department of Highways in Kodiak and he liked the permanent part time arrangements. (they were eliminated there)

Norm Cleven with D.O.T. said jobs in the Department of Highways in Kodiak were eliminated because two were never filled and one was transferred to King Salmon.

STATE AFFAIRS COMMITTEE

February 21, 1979

The meeting was called to order by Senator Tim Kelly.

The first subject to be discussed was the Muldoon Cloverleaf, SCR 11.

Kelly said he wrote the legislation because he lived in the general area of the cloverleaf and constituents at Fort Richardson, Elmendorf Air Force Base and in the Muldoon area had complained that there were no adequate guardrails. He noted that he had been in Anchorage over the weekend and that he too noticed the problem.

Martin Nickerson, State Traffic Engineer with the Department of Transportation said he had just received the information about the bill that morning. He and Kelly discussed which portion of the road did not have adequate guardrails and they looked at a map.

Kelly said the problem was with the inside ramp.

Nickerson said that 15,000 cars a day used the cloverleaf or 14 million a year.

He said there were 4 accidents at the intersection in 1976 with two injuries, 18 accidents in 1977 with 1 fatality and 4 accidents in the first 6 months of 1978. Overall this is considered a very low accident rate - 1.2 accidents per million vehicles. He described the bridge as having an outside abutment, 3% grade and 20 foot drop off.

Eleven out of the 18 accidents in 1977 were in slush conditions - since that time groves had been put in the road to help mitigate the problem.

Kelly wanted to know the cost and type of study that could be done to see whether guardrails should be put on the outside.

Dick Holden said for \$5,000 they could look into accident reports to try to develop traffic records. If they developed a history where people go off of the road more than the norm the department would then do a study to correct the problem.

Bradley and Kelly wanted to know if a study of the Fort Richardson cloverleaf could also be included in the \$5,000 report.

Affirmative.

Holden requested that the wording of the bill be "30 days after the resolution passes rather than specifying a specific effective date."

Bradley made a motion the amendment be added and that the bill be passed out of committee. There were no objections.

Art Peterson, Assistant Attorney General testified on SB 3. He said he had no prepared presentation - that he still opposed the bill in its current form. He was not convinced of the need for the bill but if the committee felt it was important he preferred his proposed Committee Substitute .

Kelly said the author (who was not present) would like to amend the bill by deleting "adopted" and adding "enforced".

Peterson said one of his major objections to the wording of the bill is that compensation is set by law, never by guidelines.

He said for the administrative agencies to operate under the bill it would require regulations be enforced - this would be related to the contract. He felt his two significant changes would make the bill more acceptable to the administration.

Senator Kelly asked Mike if Senator Sumner favored Peterson's changes.

Mike said it was his understanding that the Senator did not favor Peterson's version of the bill.

Kelly said that the author wanted SB 86 attached in its entirety to the bill as an amendment.

Peterson said that he "flatly disagree with the recollection of the staff - Senator Sumner recognizes that compensation is not set by law and regulation."

Thompson asked Peterson if he had met with Sumner since the last hearing.

Peterson said that he had not.

Kelly asked for a motion to add the amendment and to refer the bill to Finance stating Peterson and Sumner could fight it out there.

Bradley asked if staff member Cheryl Frasca had any comments on Sumner's behalf. Cheryl said she had not discussed the bill for a couple of weeks, however, she recollected that Mike was correct - the Senator was not pleased with Peterson's version.

Bradley moved the amendment be adopted and the bill be moved to Finance.

Ziegler recommended that Mike put together the amended bill and bicycle it to the various committee members for signature.

SCR 3 - there was no one present to testify. Kelly said he had spoken to Ray and that he had no problem with the bill that flex time was already used in many state departments.

Bradley said he had no objections that he was already using flex time with his employees as was H & SS - he moved the bill be passed to the finance committee.

SCR 2 There was no one present to testify. Kelly said he'd read the bill and had no problems with it. He requested a motion to have it passed out for individual recommendations.

Bradley made the motion. No objections.

SJR 23 Senator Colletta was unable to testify because he was at another hearing. A staff member from Colletta's office passed out more supporting information for the bill.

Kelly said he had reservations with the bill but since no one was present to testify on its behalf that it be postponed for a future hearing.

The meeting was adjourned.

~~Bob~~
Gil GARUCELLA - 486-3264

Dept. Highways

GOOD
Longevity

temporary

why perm/parttime
vs.
temp/parttime



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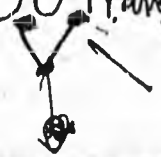
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Administration

Shortly AFTER

DD Transp Nov.

eliminated.



MR. Scoogle Jack Clark
PAPER



200 (positions)

D.O.T.

~~Norm Clevin merely eliminated~~

positions to cut back.

JOB SHARING

Senate Concurrent
Resolution 76

While the committee encourages transferring some state positions to rural areas, it also recognized that the lifestyle of many in the bush would not permit availability of a year-round basis. Present statute (AS 29.25.150(24)) requires the state's personnel rules to provide for employment of persons in permanent part-time positions in order to enable two persons to fill one permanent full-time position. To date (December, 1978), of the 7321 permanent employees within the Executive Branch, 90 were permanent part-time. State agencies have appeared reluctant to implement job sharing opportunities.

As a result, the committee introduced Senate Concurrent Resolution 76 urging the Governor and heads of all state agencies to hire as many persons as is practicable as permanent part-time employees. The resolution was referred to the Senate Labor and Management Committee where no action was taken. It will be re-introduced next session.

THE KODIAK DAILY MIRROR

Vol. 38 No. 231

Monday, November 27, 1978

25 cents

Local power outages caused by storm

Winter's first storm of the season hit Kodiak this weekend with winds gusting up to 58 miles per hour yesterday, resulting in electrical outages in several Kodiak areas.

Ed Kozak, staff engineer for KEA, said that KEA experienced damage to its distribution system yesterday due to the high gusty winds and the falling of trees, with the first report of trouble coming from the Miller Point and Island Lake areas at 11:15 a.m. Electrical consumers in those areas were without electricity for approximately four hours. Their electricity was

restored at 3:54 p.m., said Kozak.

Larch Street residents were without electricity yesterday for almost nine hours; from 12:20 p.m. until 9:11 p.m.

As a result of the electrical outage, KOTV was off the air for approximately eight hours in the Spruce Cape, Mission Road, Mill Bay Road and Rezanof Drive areas. Kozak said that KOTV was effected by the outage because some of their amplifiers and power supplies which utilize electricity were in the electrical outage areas.

Work limit called 'ploy'

Ed Sharp, a representative from Juneau from the Alaska Public Employees Association, was present at the Kodiak Apea chapter's meeting Friday night to discuss the change in APEA regulations, which decrees that a temporary employee can only work six months a year instead of nine months.

Bill Johnson, chairperson of the temporary employees advisory committee of the Kodiak chapter of the APEA, said that at the meeting Sharp openly stated that the change in the regulations was a ploy by the APEA to disrupt programs that use temporary employees, thereby forcing the creation of permanent seasonal positions.

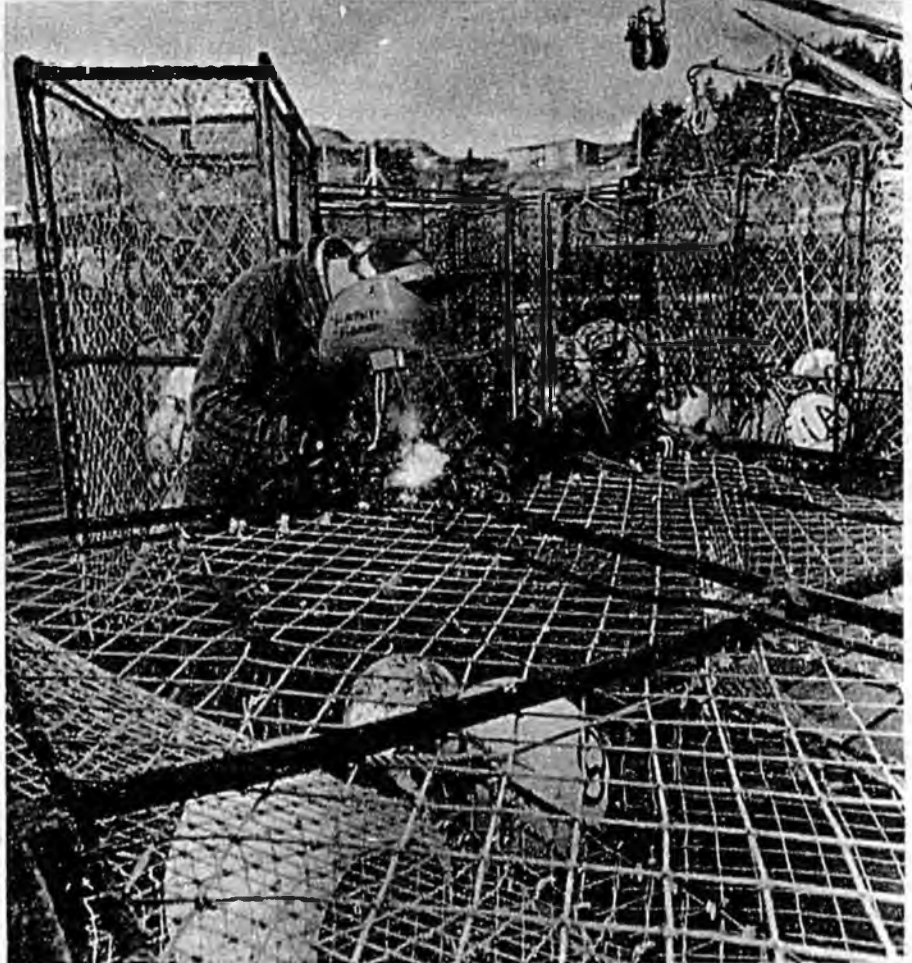
Johnson stated that for him, the primary question for temporary employees to answer is how they feel about having their

livelihoods put in jeopardy as a bargaining tool.

Johnson said that his committee has sent out 130 questionnaires to all temporary personnel to ascertain how they feel about the change in regulations, how frequently they work, for what department, and for what duration of a period they work.

The committee has also sent letters to the governor, the state ombudsman, and various groups around the state, protesting the ruling.

Johnson stated that the Fairbanks and Glen Allen APEA chapters have already officially expressed their disagreement with the change in regulations, and he said the committee in Kodiak will be contacting APEA chapters around the state to formulate a united stand against the ruling.



Stu Ferris, skipper of the crabber Belair, welds pots in preparation for the 7½-inch king crab season which opens Dec. 1.

Kodiak tops list for cultural center

At the Cultural Facilities Development meeting held in Juneau Nov. 18, Kodiak was given the top priority listing for cultural facilities development out of the 12 communities present at the meeting.

Kodiak Cultural Facilities committee member Fred Gaffney, who represented Kodiak at the meeting, said that it was very evident to all of the communities represented at the meeting that Kodiak had the best organization and community support. The group concurred that if funding were to be made available, that Kodiak would be the first community to be funded. Gaffney said at present, the proposed cultural facility for Kodiak would cost approximately \$5 million.

The Kodiak Cultural Facilities group, which has been in

existence for three years, attempted last year to obtain funds on a bond issue. The total for cultural facilities requested to be constructed amounted to \$80 million for 12 communities. The request for funds was cut to \$30 million by the close of the legislature, but the proposal never made it out of the legislature, because Governor Jay Hammond had threatened to cut excess bonding proposals, said Gaffney.

Gaffney said that since the bonds are only voted upon every two years, this year the committee is aiming for direct appropriation from the general fund of the state legislature, to the tune of \$30 million. Gaffney said it may be an uphill battle, because he said he believes the legislature will probably want voter's approval for this size of

an allotment. However, Shirley Rediger, statewide coordinator for the Cultural Facilities Development Committee, will be lobbying the legislature for its support, said Gaffney.

The committee is also interested in gaining the support from the Alaska Visitor's Association, which is interested in building convention centers throughout the state in promotion of the tourism industry for Alaska. Gaffney said the association lobbies intensely in Juneau, so the cultural facilities committee is interested in gaining their support in constructing a multi-purpose center.

"We would like to see a theater constructed that could also be utilized for conventions, rather than the other way around," said Gaffney.

Management plans up for Council review

Five fishing management plans will be discussed during the Nov. 30 - Dec. 1 meeting of the North Pacific Fishery Management Council which begins at 8:30 a.m., both days, in the Alaska Room of the Anchorage-Westward Hotel.

Up for discussion this week will be the final draft of the "High Seas Salmon Fishery off the Coast of Alaska east of 175 Degrees East Longitude" management plan, the first draft of the "Shrimp in the Bering Sea" management plan, amendments to the "Gulf of Alaska Groundfish Fishery" management plan, amendments to the "Tanner Crab Fishery off the Coast of Alaska" management plan and the

"Halibut off the Coast of Alaska" management plan.

The Council's Scientific and Statistical Committee is scheduled to meet in the Council offices Nov. 28 and 29. The Advisory Panel is scheduled to meet Nov. 29 in the Anchorage Westward's Aleutian Room.

During the Nov. 30-Dec. 1

meeting the council will also make appointments to the Advisory Panel, hear current reports from the U.S. Coast Guard and National Marine Fisheries Service and final reports on research contracts let by the Council.

A public comment session has been scheduled for 3:30 p.m. Nov. 30.

Buker search enters sixth day

The search for missing Flirite Air Service owner Paul Buker entered its sixth day today. Buker disappeared Nov. 21 on a flight from Old Harbor to Kodiak.

Search efforts were badly hampered over the weekend by wind, rain and poor visibility. Today two Kodiak Coast Guard Air Station helicopters are searching the mountain ridge lines between Old Harbor and Kodiak, according to Air Station officials, and a C-130 is flying over the water east of Kodiak in case there is any debris in the water.

To the Commander of the U.S. Coast Guard:

Thanks for the professionalism, quick response, kindness and hospitality displayed by the Kodiak Coast Guard Air Station Nov. 21.

The crew of the Crow

Hal Monsen
Bill Wiegan
Jeremy James
David Wright
Bill Nekeferoff

We owe you a lot.

Jack Kristiansen

Editor's Note: The 117-foot navy landing barge Crow sank 15 miles off Wide Bay Nov. 21. A helicopter from the Kodiak Coast Guard Air Station rescued the crew from a life raft in rain and 15 foot seas.

Correction

Danes, not Norwegians

It is the Danes, not the Norwegians as reported in Friday's Mirror, who are coming to Kodiak Nov. 29 to discuss the possibilities of installing a floating drydock facility in Kodiak.

The Kodiak Daily Mirror regrets the "glinch" which inserted the wrong country in Friday's article and accepts 30 lashes with an international

treaty.

The four member Danish group interested in putting a floating drydock in Kodiak will be headed by Erik Norgaard of Denconsult A-S.

The Danes hope to talk with fishermen and local officials during their one day visit. The Danish group may be contacted through the Alaska Shrimp Trawler's offices in Kodiak.

Weather

FORECAST: Cloudy with widely scattered showers. Rain tonight and tomorrow. Wind 5 to 10 miles per hour, from the northwest this afternoon changing to easterly tonight.

*Want Part 4 in
want help arguments
Part 4
Part 4
Part 4
Part 4*

THE KODIAK DAILY MIRROR

Vol. 38 No. 230

Friday, November 24, 1978

25 cents

Weather hampers search for Buker

The search for Paul Buker, missing in his light plane since Tuesday, is continuing today, reported Coast Guard Public Affairs Officer Ken Freeze this morning.

Buker was making cargo runs between Kodiak and Old Harbor when he failed to return to Kodiak. A Coast Guard helicopter equipped with a "night sun" search light began the search Tuesday night.

Wednesday's search expanded to include four Coast Guard helicopters, and a Coast Guard C-130, with a number of private aircraft assisting. Over 3,000

square miles were searched. Freeze reported that Thursday's search included four Coast Guard helicopters, one Coast Guard C-130 and 14 private aircraft, and once again over 3,000 square miles were covered.

Today's search will include three Coast Guard helicopters and a C-130, and private aircraft as they volunteer.

No debris or wreckage from the aircraft have been found so far, said Freeze, and no signals have been picked up from the emergency locator transmitter that Buker reportedly had on board his airplane.

Kodiak floating drydock proposed by Norwegians

A group of Norwegians interested in putting a floating dry dock facility in Kodiak are scheduled to arrive here Nov. 29.

The four-member Norwegian group will be headed by Erik Morgaard of Denconsult A-S, according to Al Burch, manager of the Alaska Shrimp Trawlers Association in Kodiak.

Burch said the Norwegians are considering putting in a floating

dry dock in Kodiak which could be used both for ship repair and renovation and also a ship building facility.

During their one day Kodiak visit the Norwegian group plans to meet with Kodiak officials and is interested in talking with local fishermen, Burch said.

Those interested in meeting with the Norwegians may contact Burch at the Alaska Shrimp Trawler's office.

U.S. may take Vietnamese refugees

KUALA LUMPUR, Malaysia (AP) — Malaysia says the United States has promised to take in all the Vietnamese refugees aboard the freighter Hai Hong who cannot find refuge in other foreign countries.

Reporters were told of the purported U.S. promise today by Osman Cassim, secretary general of Malaysia's Home Affairs Ministry.

Malaysia and the United States appear to be at odds over whether Washington will take in refugees from the Hai Hong, anchored off Port Klang 20 miles west of here, or an equivalent number from the 40,000 Vietnamese already crammed into refugee camps on islands off the Malaysian coast.

Earlier this week Washington raised its quote for Indochinese refugees from 25,000 to 27,500 for the year ending next May 1.

Robert Havel, deputy director of information for the U.S. Department of Justice, said Thursday evening in Washington that the United States would take refugees from camps to free places for Hai Hong passengers.

But Cassim insisted the United States had agreed to take all the Hai Hong refugees who can't be placed in other countries, possibly as many as 1,400 people. He said they will not be allowed into the camps.

Jones sect

More bodies found, count doubles, at sect's Guyana suicide site

GEORGETOWN, Guyana (AP) — Searchers have found at least 775 bodies at the scene of the Jonestown mass suicide-murder, almost twice as many as previously counted, the U.S. Embassy reported today. It said many of the newly discovered bodies were those of children huddled beneath their parents' corpses.

For days investigators had been unable to determine the whereabouts of hundreds of camp residents who apparently were missing. It was believed

many may have fled the death ritual, hiding in the jungle. The grisly new discoveries gave the answer.

Embassy spokeswoman Patricia Moser said that as of 1 p.m. local time — 11 a.m. EST — 485 bodies had been removed from Jonestown.

She said 20 more had been placed in body bags and a still-containing hand count had located an additional 270.

She emphasized that the count was still continuing and more bodies were being found.



Christy Lindsey, 8, is a solemn pilgrim in a Thanksgiving play performed by Jane Nuttall's third grade class at East Elementary Wednesday afternoon.

By Martini

Six-month work limit opposed

The Alaska Public Employees Association (APEA) has decreed that temporary state employees can only work six months a year, instead of nine months.

"What it really does," explained Blackburn, "is effect the individual, because he can only work six months a year, while the employer can keep rehiring successive temporary help instead of one full time employee."

questionnaires are being passed out to temporary employees, requesting their reactions to the change in regulations.

A meeting will be held regarding the change in regulations tonight at 7:00 in the Fish and Game Library, and APEA representative Ed Sharpe will be present at the meeting, to listen to the opinions of individuals regarding the change in regulations.

Blackburn said that a number of individuals have written letters to the governor, the state ombudsman, and to various groups around the state, protesting the ruling. He said

Adasiak's resignation announced

JUNEAU (AP) — Gov. Jay Hammond has announced the resignation of Commercial Fisheries Entry Commission Chairman Allan Adasiak.

Hammond named commissioner John Garner to serve as chairman following Adasiak's departure on or before Jan. 15. A replacement for Adasiak on the commission was not announced.

Adasiak says he is resigning to join the editorial staff of Alaska Northwest Publishing Co. in Anchorage. The firm publishes Alaska Magazine.

Adasiak joined the commission as executive director upon its creation six years ago. He was elevated to a member of the commission last year.

The commission regulates Alaska's limited entry program which currently covers the salmon fishery.

Chairperson of the Kodiak chapter of the Alaska Public Employees Association, Jim Blackburn, said the Kodiak chapter of the Association learned in early September of the letter of agreement signed between the APEA and the State Dept. of Administration limiting the work of temporary employees to six months a year. Since then the Kodiak chapter has been working to reverse the decision.

Blackburn said that this ruling is aimed at the employers, to encourage them to hire full time help, because temporary employees do not receive benefits.

She said the bodies were being found under previously counted corpses.

"We understand the bodies have been found piled and there was a lot of children. Many children were found under the bodies of their parents and were not counted originally," she said.

The official toll reported here previously was 408 or 409 dead at Jonestown.

A U.S. Embassy official had said Thursday that 803 passports were found at the colony, which at that time meant 300 or more persons were unaccounted for. Officials and survivors had variously estimated that from 100 to 800 members of the Jonestown commune were unaccounted for.

Although precise figures are not expected for days, if ever, today's discoveries apparently meant that almost all of the

exhorted hundreds of his followers to "die with dignity."

Peoples Temple member Odell Rhodes, who fled from the Jonestown camp midway through the death rite last Saturday, told reporters the population of the agricultural commune was more than 800, though never as much as 1,000.

Some camp residents are known to have fled into the surrounding jungle rather than take poison, and about 30 have since emerged.

A U.S. military airlift today continued flying bodies from Jonestown back to the United States.

Jones led his Peoples Temple followers in the suicide after a squad from the commune allegedly gunned down a U.S. congressman, three newsmen and a defecting cultist. Rep. Leo Ryan, D-Calif., was in Guyana

needless syringes, squirting the liquid into the mouths of babies and children first.

Rhodes had told reporters Thursday he had information that could lead to murder charges in connection with the Ryan slayings, but said he wanted to tell his story to Guyanese police.

Justice nixed investigation

WASHINGTON (AP) — The Justice Department ruled out investigations into alleged brainwashing and physical abuse in religious cults because of fears such inquiries would violate constitutional guarantees of freedom of religion, a department spokesman said.

Spokesman Robert Howell said

Weather — FORECAST: Cloudy with rain and snow mixed. Winds SE 10 m.p.h. HIGH: 40 LOW: 37
MARINE FORECAST: Small craft advisory. Winds N-NW 20 knots becoming E-SE 30 knots tonight. Seas rough 10 feet.
OUTLOOK: E 40 knots.

SAT-LOW: 2:13 a.m. 18 4:10 p.m. 0.8

Introduced: 1/18/79
Referred: State Affairs

1 IN THE SENATE

BY SUMNER

2 SENATE CONCURRENT RESOLUTION NO. 2
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Relating to the employment of persons in
6 permanent part-time positions in state
7 government.

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

9 WHEREAS unemployment in the state is traditionally high, especially in
10 the rural areas of the state; and

11 WHEREAS a contributing factor to the high rate of rural unemployment
12 is the engagement of many rural citizens in traditional subsistence hunting
13 and fishing activities which makes them unavailable on a year-round basis for
14 many state employment opportunities; and

15 WHEREAS AS 39.25.150(24) requires that the state's personnel rules
16 provide for the employment of persons in permanent part-time positions in
17 order to enable two persons to fill one permanent full-time position; and

18 WHEREAS there is an apparent reluctance on the part of many state
19 agencies to utilize the permanent part-time employees in order to increase
20 employment opportunities for the citizens of the state;

21 BE IT RESOLVED by the Alaska State Legislature that the Governor and the
22 heads of all state agencies are respectfully requested to urge the hiring of
23 as many persons as is practicable in the classification of permanent part-
24 time employees of the state so as to encourage the concept of job sharing in
25 state government.

1129

Don't leave positions in the air.

problem

eliminate → never filled
them!

3 pos^① transferred

→ ^{to} K. Salmon

the other 2 were not filled.

Temp. 9 months
6 months

SCR 2 Relating to the employment of persons SUMNER
on permanent part time positions

SUMMARY

This was SCR 76 last year. It died in the Senate Labor and Management Committee.

The current law 39.25 150(24) does provide for the employment of persons in permanent part time positions so that two people can fill one fulltime position.

Out of 7321 permanent positions, 90 were permanent part time. (As of December 1978)

This resolution urges the Governor and heads of all state agencies to hire as many permanent part time employees as is practicable.

SUPPORTING INFORMATION

^{Regarding}
Concurring Kodiak Constituents.

Talked to Gil Jarvella with the Department of Highways in Kodiak and he liked the permanent part time arrangements. (they were eliminated there)

Norm Cleven with D.O.T. said jobs in the Department of Highways in Kodiak were eliminated because two were never filled and one was transferred to King Salmon.

How is this done.

SCR

3

COMMITTEE REPORT
SENATE

FURTHER: Finance

1/25/79

Date: 1/21/79

Mr. President:

The Committee on STATE AFFAIRS has had SCR 3

utilization of "flex time" for state employees

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

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

MEMBERS SIGNING
DO PASS

W. K. ...
Bud ...
Tim Kell
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tim Kell
 CHAIRMAN

SCR 3

Relating to utilization of "flex time"
for state employees

Ray

SUMMARY

The resolution originated from public hearings held by the Blue Ribbon Commission. The commission was created November 1978 to review the personnel act and labor relations.

The resolution, if adopted, would urge the Governor to pursue a policy of granting state employees the option of flexible working hours.

STATE OF ALASKA
THE LEGISLATURE

POUCH: Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 15, 1978

SUBJECT: "Flex Time" for State Employees (W.O. #5892)

TO: The Honorable Bill Ray

FROM: O. Alexander Hoke
Policy Analyst

O. Alexander Hoke

"Flex time," an idiom only recently emergent in common usage, is an umbrella expression for the innumerable variations of the scheduled work day and/or work week devised to tailor the hours of work to the nature and requirements of the job. The ultimate goal of "flex time" is maximizing the efficiency of the work force in the pursuit of their daily job functions. The objective of some "flex time" arrangements, however, may be to establish a more convenient work schedule for interested employees.

Rule 7 of the State of Alaska Personnel Rules (see attachment) defines the normal work week as "five consecutive days, Monday through Friday," and the normal work day as "seven and one-half (7 1/2) hours, beginning at 8:00 a.m. and ending at 4:30 p.m." Any departure from the normal work day or the normal work week is considered an application of "flex time."

"Flex time" might be the answer, for example, to the situation in which one group of state employees must perform certain tasks before another group can begin to work effectively at their own tasks. In this case, "flex time" could mean starting the first group's work day an hour early. A second example is the practice of working a four-day work week with a 9.4 hour work day (equals 37.6 hours/week) in order to more efficiently execute a daily routine which requires greater than 7.5 hours to accomplish. Other purposes for departing from the normal five day week, 8:00 a.m. to 4:30 p.m. each day, include: (1) making a more effective use of costly or marginally accessible equipment; (2) enhancing employee morale on jobs involving long hours of monotonous or mentally taxing effort; (3) alleviating periods of congestion of employee transit or use of facilities; and (4) improving communication links to clients or sister agencies residing in another time zone.

Uses of "flex time" as described above are currently in effect for many state employees. The Department of Administration's Division of Personnel and Labor Relations director, Patrick Hunt, estimates that perhaps as many as 20 or 30 percent of state employees are affected by a "flex time" arrangement during some portion of the calendar year. All of these arrangements have been made through the collective bargaining process. Mr. Hunt states that he is presently unaware of any additional group of state employees who have expressed a desire to alter their work schedules. Should any such group of employees emerge, he feels that the Collective Bargaining Act is a sufficient mechanism by which changes in the normal work schedule can be modified.

It appears that the nature of legislation providing "flex time" for state employees could assume one of three approaches: (1) establish a statutory authority in AS 39.25 for the director of personnel to pursue, through the bargaining process, changes in work hours for employees as is currently being done; (2) express, through a legislative resolve, the legislature's intention that the director of personnel attempt to accommodate the wishes of state employees to modify their work hours; or (3) provide, through AS 39.25, the freedom of choice of a work schedule on an individual employee basis.

As I am leaving for a two-week vacation, Mr. Ken Humphreys, senior policy analyst for Legislative Research, will be contacting you early the week of December 18 - 22 to solicit your guidance as to which, if any, of the three options listed above you wish to pursue. In the meantime, if you have any additional questions on this matter, please give us a call.

OAH:jm
Attachment

cc: Ken Humphreys

Rule 7

HOURS OF WORK

7 01.0 Scheduled Hours of Work

Each appointing authority, with the prior approval of the Director, shall establish the scheduled hours of work for employees within his department. Such hours shall not be less than the minimum hours described herein and shall, as far as practicable, be uniform for employees in the same unit assigned to perform the same duties.

7 02.0 Minimum Work Week

37 1/2 hours of actual attendance on duty shall constitute the minimum work week for full-time employees in the classified service and the partially exempt service with due allowance for authorized holidays and leaves of absence with pay.

7 03.0 Normal Work Week

The normal work week shall consist of five consecutive work days, Monday through Friday.

7 04.0 Normal Work Day

The normal work day shall consist of seven and one-half (7 1/2) hours, beginning at 8:00 A.M. and ending at 4:30 p.m. with a one hour period therein constituting a lunch period.

7 05.0 Overtime

7 05.1 All hours of work performed by an employee which fall between any Sunday midnight and the following Sunday midnight, whether scheduled in accordance with Rule 7 01.0 or authorized to meet peak work loads or emergency situations, shall be included in the same work week.

7 05.2 Payment of overtime shall be subject to policies and regulations prescribed by the Commissioner of Administration.

7 05.3 Hours worked in excess of the minimum work week by an employee who is eligible under 7 05.2 shall be considered overtime hours for compensation purposes, provided that overtime shall not be paid in cash unless authorized in writing by the appointing authority.

7 06.0 Other Employment

No employee shall engage in any other employment, either public, private or self employment, during the hours he is scheduled to work for the

*Personnel Rules
Division of Personnel
Department of Administration*

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Concurrent Resolution 3
 Title Utilization of "Flex-time"/State Employees
 Requested by Senate State Affairs Date February 5, 1979

II. FISCAL DETAIL

Agency Affected All Agencies
 Program Category Affected All
 BRJ, Program, or Subprogram(s) Affected All
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This resolution would not add any costs to the operation of State government.

SCR

//

SCR 11

Muldoon Cloverleaf (& Ft. Richardson) Kelly

This was passed out of committee while Kelly was chairman. The vote was four "do passes" (Kelly, Rodey, Zeigler, Bradley)

This resolution would request a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon and Ft. Richardson cloverleaves.

Attached: 1) Bill
 2) Staff summary
 3) Fiscal
 4) Minutes

Introduced: 2/13/79
Referred: State Affairs and
Finance

1 IN THE SENATE

BY KELLY

2 SENATE CONCURRENT RESOLUTION NO. 11
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Relating to the hazardous condition
6 of the Muldoon^{Ft Richardson} cloverleaf on the
7 Glenn Highway due to lack of adequate
8 guardrails.

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

10 WHEREAS numerous motor vehicle accidents have occurred on the Muldoon
11 cloverleaf of the Glenn Highway, especially during the winter months; and

12 WHEREAS numerous residents of the Municipality of Anchorage have com-
13 plained to no avail about the lack of adequate guardrails on the Muldoon
14 cloverleaf;

15 BE IT RESOLVED that the Alaska State Legislature respectfully requests
16 the Governor to direct the commissioner of transportation and public facili-
17 ties to conduct a study to determine what additional placement of guardrails
18 or other measures are necessary to improve the safety of the Muldoon^{Ft Richardson} clover-
19 leaf^{at} and to submit the results of the study to the legislature, including
20 proposals for corrective action, no later than ~~March 30, 1979.~~ ^{30 DAYS following passage}

21 of this Resolution.

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SCR 11

Relating to the hazardous condition
of the Muldoon cloverleaf on the
Glenn Highway due to lack of ad-
equate guardrails.

KELLY

SUMMARY

This resolution requests the Governor to direct the Department of Transportation to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon cloverleaf. The results of the study are to be submitted to the legislature by March 30, 1979.

FISCAL

See attached Fiscal and additional comments prepared by the Department of Transportation

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SCR 11
 Title Mudston Cloverleaf Improvements
 Requested by Senator Mulcahy Date 2/16/79

II. FISCAL DETAIL
 Agency Affected Dept. Trans & P.F.
 Program Category Affected Highways
 Budget Request Unit(s) Affected _____

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			5.0			
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			5.0			

FUNDING (Thousands of Dollars)

GENERAL FUND			5.0			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

- A. At the present time, without any accident analysis or current data -- slope flattening appears to be the best solution to this problem, with extra lane second.
- B. Guardrail is the least desirable option because it is believed that it would cause more property damage than it could relieve.
- C. The study would determine which option is best.
- NOTE: this is not qualified as a "high accident" area in Anchorage.

IV. DATE 2/20/79 PREPARED BY JAB
 AGENCY Design & Const.
 PHONE 4-2121 X236
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

1 IN THE SENATE

BY KELLY

2 SENATE CONCURRENT RESOLUTION NO. 11
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - FIRST SESSION

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19 leaf and to submit the results of the study to the legislature, including
20 proposals for corrective action, no later than March 30, 1979.

21 *More accidents than should be, but not high accident area.*

22 *1. Region doesn't want guardrail. -*

23 *A. Might cause more prop. clam. than relieved*

24 *2. Maybe signing, additional lanes, slope flattening*

25 *A. Slope flattening seems most desirable at*

26 *this time - a study may prove otherwise.*

27
28
29