

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2863 SRES SB 375 - SB 379

2803

# Alaska State Legislature

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## Senate

### Committee on Resources

#### MINUTES

October 5, 1983  
7:00 p.m.

Legislative Information Office  
Anchorage

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chair  
Senator Paul Fischer

Senator Vic Fischer  
Senator Sturgulewski

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#### CALENDAR

Hearing on state land management and disposal, teleconferenced to Mat-Su

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Commissioner Wunnicke, Department of Natural Resources, identified several policy changes the Department hopes to make. Dependent on the level of funds available for planning, surveying, and grants to local governments, DNR favors compliance with local planning and subdivision regulations, plans to offer those areas identified through its Area planning processes, and intends to dispose of land at fair market value unless sweat equity provisions apply. The Commissioner stressed that lands disposed of for year-round residential use should be on road-accessible quality lands, and that remote lands should not be geared for generating needs for future government services.

In response to questions from Senators Fahrenkamp and Vic Fischer, Commissioner Wunnicke said she would support putting applicable new policies into statute.

Tom Hawkins, Director, Division of Land and Water Management, DNR, stated that land disposals help expand the survey net and help develop resource information. In total, 350,000 acres of state land have been transferred to private ownership; 240,000 of these since 1978, with \$1 million having accrued to the general fund as a result of the disposal program. There are currently 3500 subdivision parcels available over-the-counter and 52 remote staking areas open.

Hawkins expressed support for the public input process that LADS allows, and outlined DNR's upcoming land disposals. DNR will be offering 15 remote parcel areas this fall; there will be a spring lottery which will include homestead areas. (Homestead regulations will be available for review in late October.)

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Ted Smith expressed concerns over the state's current method of land disposal. The initial permit system does not allow the permittee to borrow funds to build a dwelling; further, residency and dwelling requirements are hard to enforce. Smith favors a fair market value sale with 5-10% down, and an assignable, assumable contract which would allow for financing. He also suggested an improvement schedule which would allow earning of credits against the purchase price. Smith urged state compliance with local planning and subdivision regulations, conformity of statutes to court decisions, and greater retention of lands in a general public use category.

Cal Kerr supported selling timber land for development, and urged review of the primary manufacturing requirement.

Howard Grey, Alaska Miner's Association, expressed concern that DNR regulations do not always follow legislative intent, and that the 640 acre closure limit is being thwarted with multiple classifications. He will be submitting technical amendments to Title 38.

George Lustig stated that he does not support farm plans as a requirement for agricultural disposals.

Ray Mann, Municipality of Anchorage, stressed that disposals must be consistent with local regulations. He suggested that income from fair market value sales be used for deficiency payments to Anchorage, as the municipality's entitlement has not been met with land or in lieu cash payments. Further, the grant program does not apply to Anchorage, as there is so little land available to dispose of.

Michael Grijalva urged good mining practices, reclamation and sediment control.

Ray Morgan expressed a concern that the agriculture provisions, the purchase option and the filing fees defeat the purpose of the homestead program.

Diane Muri, Alaska Center for the Environment, urged placer mining reclamation, grading to contours, and replacement of topsoil.

Don Argetsinger, NANA Regional Corporation, expressed support for state planning, especially in rural, mixed land ownership areas like Northwest Alaska. He stressed that more money is needed for planning.

Tom Pittman, Mat-Su Borough, stated that DNR's land disposal policies should be put into statute. He expressed the need for conformity with local planning and subdivision regulations; legal, feasible access in state disposals; state funding for road building and maintenance in disposal areas; utilization of good soil conservation practices in agricultural clearing done under the homestead program.

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Mary Core, Alaska Center for the Environment, emphasized the need for a computerized system to retrieve information on DNR's disposal program.

Katherine Ernst, Tokosha Citizens' Council, spoke against disposal quotas and subdivisions in remote areas. She urged that disposals follow regional planning and allow for maximum local input.

Bob Loeffler, Alaska Center for the Environment, addressed the inflated demand for state land. A better assessment of demand and the availability of private lands is needed, as current levels of disposal are too high.

Jim Scheffel suggested that an annual disposal level be set at 5-10,000 acres of high quality land. He supports longer anti-subdivision requirements, and small parcels in remote areas that have high recreational value.

John Strassenburgh wants carrying capacity determined and followed to ensure low density settlement. He urged stronger subdivision restrictions, more planning prior to disposals, and a reduction of total acreage disposed of.

Dave McCargo, American Wilderness Alliance, expressed support for a non-competitive leasing program for hard-rock minerals, with production carrying a gross royalties tax of 10-20%.

Paul Lowe stressed the need for an accurate assessment of demand for disposals, and the desire to maximize return on state resources.

Chuck Hawley, HRG, Inc., does not want ill-considered disposals where mineral values may be present. He will submit technical changes to Title 38.

The meeting was adjourned.

*Sandra*



Official Business

# Alaska State Legislature

SENATE RESOURCES COMMITTEE

Pouch V  
State Capitol  
Juneau, Alaska 99811

October 31, 1983

## COMMENTS AND SUGGESTED CHANGES--TITLE 38

### Chapter 04--Policy for Use and Classification of State Land Surface

- ① 38.04.005 More specific goals and policies need to be spelled out for managing and disposing of state land which take into better account the whole range of resource values and uses.
- ② .04.010 This section articulates the policy of making year-round residential use near existing services and seasonal, recreational use disposals where future services will not be needed. Many emphasized the need for either applying this goal more strictly in the disposal program or strengthening the statutes to include such language in the specific disposal authorizations. See also 38.04.020 and 38.09.
- ③ .04.020(e) Despite the statute requirement that a budget for disposals be submitted to the Legislature, it was argued that insufficient monies are appropriated to ensure a stable, continuous program over several years. Also, some costs such as possible local services incurred by disposals are not accounted for nor the costs of enforcement of sale provisions. See also 38.08 and 38.09. Although the statute requires estimating costs of complying with local platting and subdivision ordinances, AS 29.33 exempts the state from having to provide capital improvements, such as roads, as part of its compliance with local platting requirements in the disposal of state land. See also 29.33.
- ④ .04.020(e)(4) allows DNR to submit a schedule for obtaining cost estimates of municipal regulation conformance in disposals if not available. This "loophole" should be deleted and estimates annually required.
- ⑤ .04.020(f) The statute requires an annual assessment of the demand for state land taking into account supplies of private and local lands. Some felt this is either not being done administratively or that the statute should be strengthened to require accurate market demand/supply/need for disposals.
- ⑥ .04.020(g)(2) requires certain percentages of subdivision land be made available for homesites by particular disposal methods. One of these methods, by length of residency has been ruled unconstitutional. The arbitrary percentages to be disposed as homesites should be repealed as well as disposal methods to better reflect specific market demand and public policy.
- ⑦ .04.020(h) limits subdivision parcels to five acres unless local zoning ordinances, topography, sewer and water requirements dictate larger parcel. Remove limitation to enable larger parcels to reflect public desires, other resources in specific areas.

- ⑧ .04.020 Include new provision precluding subdivision disposals in "remote" areas or make such disposals take into account carrying capacities of local resources.
- ⑨ .04.020 The DNR administrative procedure currently calls for public hearings prior to land disposals. Public hearings should be required in the statutes.
- ⑩ .04.020 Although some disposal programs generally refer to making land available throughout the state, specific quotas or percentages of land by region should be required to ensure land disposal in all areas without disposing of a preponderance of land in a few regions as is the case currently.
- ⑪ .04.021 provides for grants to municipalities for the disposal of municipal entitlement lands. Much more money should be appropriated for this program and the statutory restrictions on the ratio of money from the state vis a vis municipal disposal money should be repealed (5 to 1 or 7 to 1). Grants should not be limited for entitlement land disposals, but any local lands. Some statutory provision should be made to encourage the joint participation of state and locals in the disposal of both state and municipal lands.
- ⑫ .04.025 requires DNR to assess the supply and demand for land in making lands available for private use. This section is redundant to a large degree to the assessment required in .04.020(f) and should be repealed or integrated and made more specific.
- ⑬ .04.035(4) prescribes a lease system for cabins in remote areas where survey and conveyance is impractical. Cabin lease system should be more broadly used instead of disposals when dealing with "trespass" cabins, recreational uses, resource conflicts and other factors. See also .05.079.
- ⑭ .04.040 authorizes the sale of University lands. With the passage of SB 41 last session removing University lands from "state" or public lands, this and other references to University lands should be repealed.
- ⑮ .04.045(a) permits the disposition of land in parcelsizes reflecting individual use needs or market supplies. This conflicts in part to the subdivision 5-acre limitation in .020(h) and should be either consolidated or made consistent with this section.
- ⑯ .04.045(b) requires surveying and platting prior to land disposal. Specifies land not to be conveyed unless within two miles of control monument. Requires state disposal plats to comply with local ordinances similar to private lands. This should be adhered to administratively and the exception for the state in complying with capital improvement requirements by locals in Title 29 should be repealed. See 29.33. See also .09, homestead survey requirements.
- ⑰ There is debate on the definition of "cadastral survey". Some want definition to include survey monumentation every section and quarter section, others prefer broader definition to expedite disposals in remote areas.
- ⑱ .04.050 provides for the reservation of easements and rights-of-way when lands are surveyed for disposal for access to each parcel of land. Surface access is to be developed where "necessary and appropriate" with costs to be borne by land recipients. Statutory changes recommended specifying that legal and feasible access be provided to and within subdivisions (not necessarily section-line easements, for example) and that access meeting local ordinances for subdivisions be required of the state. See also 29.33.

- (19) .04.055 mandates the reservation of public use easements and rights-of-way in the disposition of private lands. This provision is very similar to the provisions of 38.05.127. More public easements and rights-of-way should be reserved administratively under this authority and state land reservations in fee simple should also be made to ensure access to public lands and waters. See also .05.127
- (20) .04.065 requires the development of regional or area plans to guide land classifications. Although land classifications must follow such plans, until they are completed (only a few are currently completed) localized "land planning reports" are the only plans currently required prior to disposals under current administrative regulations. Area or regional plans should be completed and required prior to land disposals to ensure that all resources are considered in a particular area or region.
- (21) This section also requires local government and public involvement in the planning process. The statutes should specifically mandate the holding of public hearings as part of the plan development and prior to any classification or disposal. See also .04.020 and .05.301 and .05.345.
- (22) .04.070 sets out several classifications for retaining land in public ownership. One or more of these such as "public reserve lands" should be further defined statutorially and lands included to more permanently retain them for a variety of public uses in contrast to more specific management systems such as state parks or state forests.
- (23) .04.910 is the definition section for .04. The definitions for "official cadastral survey" and "official control survey" should be reviewed in light of federal and state policies and most current applications. See also 04.0-5(b).

## CHAPTER 05--ALASKA LAND ACT

- (24) .05.030(c) provides for the notification to DNR by other state agencies of any land acquisition, lease or exchange. Notification should include disposals also
- (25) .05.035(a) requires DNR to make a "best interest" finding prior to sales, leases, or other land disposals, except for revocable permits, shore fishery sites, leases, and certain negotiated contracts. All disposals, including permits and leases, should require "best interest" written findings. Such a finding should be further clarified in the statutes and include social and economic impacts and benefits of disposals.
- (26) .05.035(b) authorizes the granting of preference rights to land and property to persons adversely affected by state or federal errors or omissions. Limit rights to preferences to three years from date of error or state action in order to avoid long-standing claims with difficult record reconstruction.
- (27) (b)(5) authorizes direct negotiation with users or improvers of state land prior to statehood to convey title when in "best interest" of state. Provision of dubious legality and should be repealed.
- (28) .05.045 authorizes the sale of all state land except tide, submerged, shorelands, timber and grazing lands. Timber lands should be allowed to be sold to enhance timber harvesting and reduce administrative costs.
- (29) .05.050 mandates that land disposals, including homesites under .04.020(g)(2)(C),

be held in the "municipality" closest to the land and in which regular sessions of a state court are held. Some feel that this requirement is unfair to residents from other areas of the state while others favor retention of the requirement as a form of resident preference. One suggestion is to permit teleconference participation at auctions or lotteries.

③① The reference to .04.020(g) should be deleted as part of the suggested repeal of that section.

③① Change "municipality" to "community" to take into account unincorporated locations.

③② .05.057 requires the consultation by DNR with the local assessor in the determination of purchase prices prior to disposal. This requirement should be eliminated as unnecessary.

③③ .05.058 established a discount program for the purchase of land based on the number of years of residency. Discounts up to 50% of the purchase price were available. This provision was ruled unconstitutional and was repealed in the last legislative session. Some felt the resulting policy of disposing of land at fair market value will result in a more accurate picture of demand for state land, will enhance private land developments, and effect a better return for state resources. Others have recommended a replacement discount program not based on residency to continue to provide lower cost alternatives to state land acquisition. One suggestion is to give a "rebate" or a discount off a fair market value purchase price if certain specified improvements are completed. The value of the improvements up to a certain percentage of the purchase price could be permitted. Another suggestion is to establish a forgiveness system towards the purchase price in which payments are removed from the end of the payment schedule for each year of payments paid on a year-to-year basis. This concept is included in SB 230 currently pending before the Legislature.

③④ .05.065(a) sets the interest rate to be paid on land disposal contracts to real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. These rates have currently been more than 12%. A more appropriate guideline should be established which would more closely reflect rates for prevailing state programs such as housing, ag and fishery loans.

③⑤ .05.065(c) provides a general action for contract violations. An appeal process should be enacted followed by the prerogative of the commissioner to foreclose and sell interest to a third party as if it were a deed of trust.

③⑥ .05.067 provides for special sales of land for veterans. This provision is currently not being utilized by the DNR, nor has it been used to any extent in the past. It should be repealed.

③⑦ .05.069(a) and (b) provide for a 60-day first option to adjacent landowners for ag land sales or leases and a method based on a "greatest need" or veterans preference to determine which of several adjacent landowners should be granted an option. To facilitate efficient administration and simplify the selection procedure ag land options for adjacent landowners should be exercised at the time of disposal and a single recipient selected by simple drawing of lots.

- 38 .05.070(b) authorizes the DNR to negotiate a land lease without advertisement if it involves less than \$250/year. This limitation should be raised to \$5000/year to expedite processing leases.
- 39 .05.070(c) authorizes DNR to grant land leases for up to 55 years if in best interest of the state. Limit should be raised to 99 years to be compatible with federal leases and to facilitate financing of development.
- 40 .05.077-.078 establishes the remote parcel leasing and conveyance program. The legislature repealed this program effective July 1, 1984 and substituted many of the provisions with the homestead program (see 38.09). The remote parcel program should be reenacted or extended another year or so to permit smoother transition to homestead program, ensure maximum land availability for remote recreational use and to permit stakers a 5 to 10 year lease prior to purchase of land.
- 41 .05.079 authorizes a remote cabin permit program. Although cabin permits are to be issued only for lands classified for this purpose, current classifications are too permissive in wherere remote cabins may be located. Others have felt that this program is underutilized and more remote cabins should be offered and encouraged in lieu of land disposals in remote areas. The permit system should be replaced with a lease system to ensure that a "best interest" finding was required (see .05.035(a)). Also a public use cabin should either replace or supplement the remote cabin permit program to further reduce the need for land disposals.
- 42 .05.110 provides for the assessment of timber on state lands and recommendations for the sale of timber and other materials. This assessment and recommendations should take into account the availability and current markets for nearby private timber supplies.
- 43 .05.125 mandates the reservation of the mineral estate (subsurface) from all lands conveyed by the state. In the references to various disposal programs covered by this provision should be added 38.09 establishing the homestead program.
- 44 .05.127 requires the determination of "public waters" or "navigable waters" prior to the disposal of state land and the reservation of easements or rights-of-way to ensure public access to and along such waters. Regulations implementing this section have not been issued. Current applications of easement reservations for entitlement lands conveyed to municipalities have been too broad resulting in many unnecessary and burdensome easements in land titles. Statutes need further clarification on what "public waters" are and perhaps special provisions for municipal lands when it can be demonstrated that reasonable public access will be ensured. (The statute does provide for vacating of easements on municipal application "if consistent with the public interest".)
- 45 Oil and gas and mineral leases should be excepted from the application of the provision. As such leases only permit limited surface uses and do not bar public access, commonly are held for years without ever going to development or production stage, and involve time-consuming administrative work to identify public waters and easements, it is recommended that such easements and rights-of-way not be identified until a development or production plan is submitted for approval.
- 46 In addition to easements and rights-of-way, fee simple state land should be reserved in cases (see .04.055).

- (47) .05.140-.181 Authorizes leasing for coal, phosphates, oil shale, sodium, sulphur and other minerals on state lands. The terms for such leases vary somewhat including acreages and length of leases. These terms should be reviewed and made consistent if appropriate.
- (48) .05.150(c) authorizes a two-year coal prospecting permit with one two-year extension if diligence is demonstrated. Because of the lengthy prospecting time necessary for coal exploration, permits should be granted for longer terms (e.g. 3-5 years with one or more extensions).
- (49) .05.150 In the determination by the DNR to lease coal lands, nearby coal reserves on private lands should be taken into account.
- (50) .05.185-.275 governs the procedures for locating and administering mining claims on state land. Procedures are also contained in Title 27. Rather than a location, or claim-staking, system of establishing rights to mineral and possibly surface estates, all minerals should be leased under programs similar to those for oil and gas. Rather than the current Mining License Tax levied on net profits on a sliding scale up to 7% , a royalty system similar to oil and gas should be enacted (10-12% of gross profits). Such a system would discourage marginally economic operations , protect other resource values , and generate a fairer return on state-owned resources. (The current tax took in \$153,000 in 1982--90% of the money from coal, sand and gravel and other non-locatable mineral production.)
- (51) .05.185 authorizes the leasing of minerals when DNR finds that potential use conflicts on state land would exist or that the land was mineral in character at the time of state selection. Such lease determinations must be consistent with the land classification procedures. Regulations for implementing a location leasehold system for conflict or mineralized state land areas are currently proposed. Lands available only for location leasehold mineral acquisition should be expanded to include most, if not all, state lands. This could be accomplished either through a broad administrative determination of "use conflicts" or through additional statutory language directing additional considerations in the classification of leasehold lands.
- (52) .05.190(a)(1) grants exploratory and mining rights to those at least 19 years of age. The current age of majority for most activities in Alaska is 18 years old, and this statute should be correspondingly changed.
- (53) .05.195 requires that mining claims be staked in the four cardinal directions (north, south, east, west). Amend provision to not apply to fractional claims or when the commissioner determines that such staking is impractical.
- (54) .05.200 or .210 Amend the requirements for amending claim locations or filing annual assessment work to allow affidavits of annual labor to be corrected by amendment thus providing a legal mechanism for correcting errors.
- (55) .05.205 directs the DNR to publish a notice of a mineral lease no later than two weeks before sending lease application. This publishing requirement should be deleted so that mining leases are treated like other noncompetitive mineral leases whereby the notice is published only when the finding mandated by 38.05.035(a)(14) is ready and no subsequent notice is required. See also .05. 345(e).

- (56) .05.240 provides for basic mineral survey finds for annual labor to be filed and kept confidential by DNR. Delete the provision as it can result in the "leaking" of proprietary information, the information is often of mixed quality, the date submitted serves no particular public benefit, and the requirement poses an administrative burden for claimants and DNR.
- (57) .05.245(a) requires the filing of a certificate of mining location in both the recording district and also the DNR. Delete the requirement to file the certificate of location with the DNR as the District Recorders' Office is currently within the DNR.
- (58) .05.245(c) limits the number of prospecting sites that a person may locate in one calendar year in one recording district to six. It also prohibits the relocating of an expired prospecting site within two years. Change the number of prospecting site locations from six sites "located" in one year in one district to eight sites "held" at any one time in each township. This increase in the number of sites permitted will encourage the use of prospecting sites where a discovery has not been made yet and address a current loophole whereby employees of large companies locate sites and quitclaim deed them to company. Also change the waiting period for restaking sites from two years to one.
- (59) .05.250(a) provides for the issuance of prospecting permits for tide and submerged lands. Amend to clarify that the rental year for an offshore prospecting permit ends on the anniversary date of the permit, not at the end of the calendar year. This change would allow the rental year for permits and offshore leases to be computed in the same way.
- (60) .05.250(b) Provides for the obtaining of a noncompetitive lease to holders of prospecting permits. Amend to delete the first sentence of the provision which states that the "right to possess and extract the mineral may be acquired by noncompetitive lease." This sentence is redundant of the next sentence in the provision and may mislead people to believe that they can get a noncompetitive lease without first obtaining a prospecting permit.
- (61) .05.265 prescribes the basis for "abandonment" of a mining claim, location, or permit. Amend to define the "essential facts" that must be included in annual labor affidavits. Amend so the former owner of an abandoned mining location cannot acquire any direct or indirect beneficial interest in the location site during the one-year waiting period. Change the waiting period for prospecting site locations from two to one year consistent with .05.245(c). Amend to provide that abandonment of a mining lease or location constitutes abandonment of the interest in tailings mined and left on state land, unless the lessee or locator has purchased the materials in the tailings and has received authorization to store tailings on state land.
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- (64) +see #95 .05.275 Amend to eliminate the requirement of filing a certificate of location with the DNR as in 38.05.245(a). The district recorders office is in DNR.
- (65) .05.300 provides for the classification of state lands and bars the closure of state lands, except by the state legislature, to multiple purpose use if the area involved contains more than 640 acres. This prohibition should be strengthened to prohibit the DNR to administratively close more than 640 total acres by multiple 640-acre closures. See also .04.065.
- (66) line authority to close lands to mineral entry should be broadened to enable the closure of lands conveyed to municipalities under the entitlement grants

- (67) .05.301 requires an assessment of impacts of any land sale, lease or disposal on population and traditional land uses in the unorganized borough and necessary mitigation plans. Citizen review boards or perhaps the Coastal Resource Service Area Boards should be utilized in the review of all proposed land disposals in rural areas (or any areas). In addition to required input the Boards might be given veto authority over proposed land sales or disposals. See also .04.020.
- (68) .05.310 requires an appraisal within 120 days of the sale or lease of state lands. Because of the delays often encountered in leasing and selling lands, costly reappraisals are often required by law. The 120-day limitation should be extended to one year.
- (69) .05.345 establishes the notice requirements for classification, sale, lease and disposal of state lands. (b) requires at least one of several different kinds of notice be given (e.g. newspaper publication, electronic media, posting, notification of affected parties). More than one such method of notification should be required.
- (70) (e) provides an exception for mineral leases issued under 38.05.205. This should be deleted to conform with change recommended for .05.205.
- (71) Amend to include provision for public hearing upon request subsequent to notification. See also .04.020 and .04.065.
- (72) .05.350 is a policy statement for the state to encourage settlement and develop resources consistent with public interest. This policy is incorporated in the policies contained in .04.005-.015, is statutorially out of place and should be repealed.
- (73) .05.362 mandates the classification of at least 650,000 acres of agricultural land or no less than 50% of the lands having Class II or III soils by September 22, 1979. This requirement was met and the provision should be repealed.
- (74) .05.365 is the definitions section for chapter .05. Number 23, "public waters" should be reviewed for clarity particularly as it applies to the reservation of easements and rights-of-way for municipal grant lands under .05.127.
- (75) .07.030 provides for the clearing of ag lands owned or leased by private parties. A revolving loan fund should be established for clearing projects wherein monies could be continuously available to clear both state and privately owned or leased ag lands.
- (76) .08. Establishes the homesite disposal program under which title is obtained through "sweat equity" requirements of residency, dwelling construction and survey. One suggestion is to eliminate the permit system during the proving up period, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on improvements or actions taken on the land. This "carrot" approach would result in better ability to finance improvements and reduce administrative compliance actions.
- (77) Another recommendation is to make the requirements conform to the "sweat equity" features of the recently-passed homestead bill--residency from 35 months in 7 years to 25 months in 5 years; dwelling construction from five to three years.

(78) If all requirements except the ones for residency have been<sup>met</sup> at the end of the permit term, amend the statute to permit the purchase of the parcel at fair market value. This would provide an expedient and equitable way of dealing with forfeiture of parcels with property improvements on them.

See also .04.020(g)(2).

- (79) .09.010(b) requires that lands available for homestead entry may not be located more than one mile from a survey control monument. .04.045(b) prohibits the disposal of state land further than two miles from a monument. This provision should either be eliminated in .09.010 or be made subject to an administrative determination that staking could be permitted up to two miles of a monument when geographic conditions warrant and excess survey costs to stakers will not be incurred. This change would permit a full conversion of lands identified for remote parcel disposal (where monuments are generally located every four miles) to homestead disposal. (The remote parcel program is repealed effective July 1, 1984). This would eliminate the need for additional costly surveying in these areas.
- (80) .09.010(e) prescribes the procedures for staking of homestead entries. Staking procedures in remote areas should include a requirement that sufficient spacing between parcels occur to minimize the demand for future services and reduce conflicts with other resources and occupants. See .04.010.
- (81) .09.020 prescribes the obtaining of entry permits under which "prove-up" activities are to occur. Eliminate the permit system, provide an assumable and assignable contract at fair market value and a schedule of rebates or discounts based on the value of improvements or actions taken on the land. This approach would result in easier financing for improvements and less administrative compliance expense. See also .08, homesite program.
- (82) .09.050(d) and (e) Prohibits the subdivision of lands obtained through sweat equity for five years and through purchase for ten years and the sale or lease of lands for five years regardless of method of acquisition. These prohibitions should be extended for longer time periods to prevent speculation and to ensure that the goals of the program are being met.
- (83) .09.080(b) subjects homestead disposals to local platting, recording and subdivision requirements under 29.33 and 40.15. 29.33 exempts state compliance from having to provide any capital improvements on land disposals. Disposals should be made subject to all local platting and subdivision ordinances, or be forced to negotiate with municipalities on the provision of access and other improvements. See also .104.020(e) and .04.045(b) and 29.33.
- (84) .09.090 authorizes the purchase of a homestead entry within two years subject only to the brushing and survey requirements. Purchase at fair market value should also be permitted at the end of the permit term if all but the residency requirements have been met. See .08.
- (85) .35.050(a) governs the application process for the construction of an oil and gas pipeline and/or transportation system across state lands. A minimum application fee (perhaps \$1000) should be provided in statute to cover the administrative costs of processing a right-of-way application.
- (86) .35.140(b) provides that the lessee of a pipeline right-of-way shall reimburse the state for costs in monitoring the construction of the pipeline. Amend to provide for reimbursement for processing application, and for monitoring operation and maintenance of the pipeline.

- 87 .50.020(a) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review and possible veto. One recommendation was to require that all proposed exchanges involving state lands be submitted for legislative review. Other recommendations were that the equal-appraised-value requirement is too strict and burdensome and discourages trades, especially small-tract exchanges even when public benefits are clear. The statute should be amended to permit the exchange of land smaller than a certain size (perhaps 640 acres or smaller) administratively regardless of equal appraised values.
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- 89 .50.020(b) assumes an appraisal to be valid for six months and after such time a new appraisal for a proposed land exchange is required. Amend the statute to lengthen the "validity" of an appraisal to one year to permit the execution of trades which involve considerable administrative work and public review without incurring the costs of additional appraisal.
- 90 .50.110- .130 dictates substantial requirements for the notice and data needed for a proposed land exchange. Amend the statute to streamline the notice and information requirements for land tracts under a certain size (perhaps 640 acres) to facilitate beneficial exchanges without large administrative costs. Make the notice requirements conform to those for land sales and leases in 38.05.345.
- 91 .50.120 requires that at least one public hearing be held on a proposed land exchange. Amend to include a minimum tract size before a public hearing is required to minimize administrative costs for small exchanges.
- 92 .95.030 mandates the granting of a trapping cabin permit to qualified applicants. Amend language to grant DNR discretion to not issue a permit in consideration of existing land uses and resource values in the specific location.
- 93 Amend to apply the provisions to cabins and camps used for hunting, fishing or other guiding activities.

#### ADDENDUM

- 94 .20 This chapter describes the Alaska Coordinate System to be used in land surveying and descriptions. Changes in the federal datum used as a base for this system should be reflected in the state statutes.
- 95 .05.275 provides for mineral locations on submerged and tidelands. Amend to limit the staking system of locations to state uplands and to tidelands (between mean high and mean low tides) if part of the claim is on uplands. Staking on submerged lands (below mean low tide) would be disallowed and submerged lands would be available to mineral exploration and production by the state's offshore mineral leasing system.

TITLE 38--GENERAL COMMENTS

- 96 ---Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a land bank program under which Native and other private lands can receive tax and other protections in exchange for non-alienation and non-development of the private lands and management in conformity with adjacent federal and state lands. The State is authorized to participate in the program if it adopts laws of general applicability to section 907. To promote cooperative land management among major landowners in the state, it was recommended to adopt enabling provisions for a land bank program.
- 97 ---DNR regulations currently limit participation by most Division of Land and Water Management employees in land staking and over-the-counter programs. Such possible conflict-of-interest situations in land disposals should be identified and restricted by statute.
- 98 ---Presently only the homestead program and the project ag leasing program have restrictions on the sale or subdivision of land after the conveyance of title. To further prevent speculation on state land several provisions were recommended: Increase anti-sale, anti-subdivide restrictions on homesteads and apply similar restrictions to all state land disposals; Strictly retain fair market value sales and/or require substantial residency and improvements of land; Broaden the coverage of the one homesite or homestead per lifetime proviso to all state land disposals.
- 99 ---SB 41 which settled the University of Alaska/State land lawsuit by awarding the University exclusive ownership and management over certain state lands passed the Legislature last session. The removal of University lands from "public lands" necessitates that the references and treatment of University lands be changed in the statutes throughout Title 38.

COMMENTS ON RELATED SUBJECTS IN OTHER TITLES

## Title 29--Municipal Code

- 29.18.201-.208 Under the municipal land grant entitlements the Municipality of Anchorage received 44,993 acres of state land, but to date has only received patent or tentatively approved title to 21,000 acres with virtually no additional state land for selection available. The statute contains a formula based on population and lands conveyed to compensate in cash municipalities who are unable to fulfill their entitlement. Under this formula Anchorage would be entitled to \$35 million except that another provision limits the total any municipality can receive to \$9 million. Anchorage has received \$4 million to date of this compensation. Recommendations included: 1) payment of the balance of the \$9 million; 2) removal of the cap and payment of the otherwise entitlement compensation under the formula; 3) Development of an alternative manner of conveying in-lieu lands to Anchorage from outside the municipal limits or proceeds from the sale or use of such lands.
- 100
- 101 Municipal lands conveyed under this section have often remained open to mineral entry and created third-party interests prior to being studied, classified and utilized by the municipalities. Such lands should be closed upon conveyance to municipalities. See 38.05.300.
- 102 Conveyance of municipal grant lands has sometimes proceeded slowly and

patent to all municipal lands has not yet been conveyed due to the necessity to survey the lands prior to patent. If the municipality approves the conveyance of lands without a survey or with only partial survey, it should be permitted. Also, the municipalities have had to pay for surveys to expedite conveyance and more state assistance is required. See also 38.04.045(b)

29.33.150 requires the state to submit land disposal plats to local governments having appropriate authorities for approval, but "the platting board may not disapprove the subdivision plat on the basis of regulations which require capital improvements (e.g. roads) on or to state land included in the subdivision plat. Regulations adopted after the platting board is notified by the commissioner of natural resources of a proposed sale of subdivided state land under 38.05.005-38.05.370 or 38.08.010-.120 do not apply to the state land in the proposed sale." Repeal the exception for capital improvement requirements to enable local governments to minimize the future demand for access and services to state subdivisions and to ensure future residents satisfactory access and services. Removal of the exception would also put the state on the same footing with private land developers and ensure local control on community growth and lifestyle.

(103)

In an effort to reduce costs to the state of such a change in the statute and to ensure that disposals are not blocked by overly burdensome ordinances, capital improvement requirements could be limited to disposals on or near existing highways and roads; could be limited to some accented standards, such as primitive road or local road, etc.; or funding could be through revolving fund incorporating receipts from land sales and possibly tied into the municipal grant program for local disposals. See 38.04.020(e), 38.04.021, 38.04.045(b), 38.04.050.

(104)

#### TITLE 27--MINING

---Title 27 also deals with many of the same mining procedures and rights (picked up from federal law) as are contained in Title 38. These apply to mining rights on fed

(105)

---The reclamation statute dealing with coal mining formerly contained in Title 41 is now contained in Title 27. The reclamation requirements pertaining to coal should be applied in law to all mining operations.

(106)

---27.05.020 prohibits certain conflicts-of-interest. Recent interpretive problems point out the need for revision to clarify meaning and intent.

(107)

---27.05.080-.090 require four public assay offices with assayists in each office state-wide. DGGs actually only maintains one assay lab on the UAF campus. The statute should be changed to reflect the realities of the situation. It might be preferable to enact an assay system based on private assaying with rebates to miners for private assaying.

(108)

---27.05.180-.210 authorizes the purchase of specific mineral prospecting equipment to be loaned out to private persons for exploration work. DNR no longer, if ever, conducted such an equipment lending program. The 1955 statute should be repealed.

(109)

---27.10 embraces the 1872 mining law as it governs mining on federal lands. Changes made in the 1976 Federal Land Policy and Management Act (FLPMA) are not incorporated in these statutes and should be.

(110)

---27.15.010 is the only provision in Title 27 dealing specifically with mining on state-owned lands. It requires "grubstaking" contracts be in writing. Should be repealed.

ADMINISTRATIVE AND BUDGETARY CONSIDERATIONS AND RECOMMENDATIONS

- 1) Concern was expressed over the amount of land which is currently being disposed. While most recommended that less land be disposed of, some felt more land should be sold or made available for private use. There is currently no statutory level of acreage disposal and annual offerings have ranged from almost nothing in 1975 to 100,000 acres in 1980 to approximately 60,000 acres for 1983.
- 2) Concern was expressed that land should be made available throughout the state, not just primarily in the Mat-Su Borough or the Tanana Basin. Also it was recommended that high-quality, accessible land be offered to a great extent.
- 3) While the need for remote recreational and residential lands was recognized, many expressed concern that spacing requirements be enforced to minimize population densities and corresponding impacts on the resources of the areas and to head off future demand for governmental services such as schools, roads and utilities.
- 4) It was recommended that much more planning precede disposals. In most cases area or regional plans should be completed prior to land classifications and disposals to ensure protection of other resource values in the larger area.
- 5) If parcels are not sold or staked in a particular offering they should be retained in over-the-counter offerings.
- 6) There was considerable concern over the quality and application of market studies in the determination of the amount and locations of land to be disposed of. Although the statutes require a market analysis based on the demands for state land relative to the supplies of other public and private lands, such studies have been criticized as being inadequate, superficial or based on limited information. It is recommended that the DNR conduct a more accurate market study prior to disposals, especially in light of removal of the residency discount program.
- 7) Many felt that the state should fully comply with local platting and subdivision regulations, even if improvements such as roads were required. State subdivisions in the past were felt to create undue burdens on local governments and hardships on land "winners". Also, such subdivisions were blamed for undue competition with private land subdividers who must meet local ordinances.
- 8) It was felt that the state needs a well-planned, long-range program with consistent land disposal programs. Program changes and frequent amendments by the Legislature contribute to public confusion, false short-term demand, and high administrative costs.
- 9) Some felt that the DNR classifies too much land as available only to mineral leasehold location system while others felt most, if not all, land should be so classified. Current law permits classification for leaseholds when resource conflicts are present or the land was mineral in character at the time of state selection (38.05.135).
- 10) It was recommended that DNR consider supplies of timber, coal and sand and gravel on nearby private lands prior to sale of these materials and resources on state lands so as to not directly compete with private developments.
- 11) It was recommended that the remote cabin program authorized in 38.05.079 be utilized to a greater extent, possibly subject to certain classified areas, in lieu of disposal programs.

- 12) It was felt that the DNR should charge greater fees for the processing of permits and leases to help defray administrative costs.
- 13) It was recommended that the current work plans for ag lands not be required but that developments could be better effected through some program of monetary incentives. Others felt that improvement requirements reduced the speculative aspects.
- 14) It was recommended that DNR utilize its authority in 38.05.070(c) to cancel unused grazing leases.
- 15) The DNR and perhaps the Legislature should develop a trespass policy and procedure for state lands emphasizing priorities for administrative action due to time and manpower constraints.
- 16) Lands conveyed to municipalities under the entitlement program should be closed to mineral entry.
- 17) Additional monies are needed for the municipal land disposal fund program to assist the local governments in disposal of entitlement lands and remove pressures for similar state land disposals.
- 18) Money is needed for a state computerized system for handling land records and land disposal information. A full accounting of costs and revenues from sale and lease programs needs to be undertaken and retrievable information made available.
- 19) A more abundant and predictable source of money for land surveys is needed if a long-range, consistent program of land disposal is to be obtained. Surveys are needed several years in advance of disposals and also serve additional land planning and use needs.
- 20) More money is needed for completion of area or regional plans required in Title 38. The current schedule subject to annual appropriation levels will not allow completion of plans for most of the state before the end of the decade.
- 21) More money is needed for on-the-ground management of state lands, particularly in the area of enforcement and compliance.
- 22) Title 38 should be published in a larger format booklet for the public similar to the Title 29 publication produced by the Department of Community and Regional Affairs.

# Alaska State Legislature

*Sandra*

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## Senate

December 27, 1983

### Committee on Resources

#### PROPOSED ACTIONS ON COMMENTS AND SUGGESTED CHANGES--TITLE 38

<u>Comment No.*</u>	<u>Findings/Recommendations</u>
1	Almost by definition the many different resources and potential uses of state lands will result in conflicts. Policies reflecting state goals for these different resources and uses similarly will be in conflict in specific cases. While only broad policies appear appropriate in statute, consideration of various resources in the disposal of land is recommended in statute. (See section 1 of proposed Title 38 Lands Bill)
2	This problem is largely administrative in nature as the existing statutes contain sufficient policy direction. However, additional language is recommended to take into account various resources in the spacing of disposal tracts. (Sec. 3)
3	Changes are recommended in the demand study to include demand for future services. Also, it is recommended that the exception for capital improvements in complying with local subdivision ordinances be repealed. (sec. 5 and sec. 46)
4	Recommended. (sec. 4)
5	Statutes governing market demand assessment are straightforward and comprehensive. Better administrative implementation and use is recommended. (see sec. 5)
6	Recommended (sec. 6)
7	Recommended (sec. 7)
8	Recommended (sec. 3)
9	Current public hearing procedures appear adequate. Public hearings are costly, sometimes poorly attended and sometimes inappropriate. <u>Recommend additional, but not</u>

\* Comment Numbers correspond to numbers on compilation of comments by various reviewers dated October 31, 1983

mandatory language in statutes on public hearings.  
(sec. 2)

- 10 Mandated quotas have been found to result in significant resource and administrative problems and are not responsive to changing political climates and the demand for private land. No change recommended.
- 11 Additional monies are recommended for the municipal grant program and closer cooperation and assistance with municipalities to encourage local and joint disposals is urged. The establishment of a new revolving loan fund for land disposals, including municipal disposals, is recommended. (sec. 8). Changes to the grant program need to be explored further and are not recommended at this time.
- 12 Recommended. (sec. 48)
- 13 Recommended. (sec. 9). Also recommend that the Administration implement remote cabin permit or lease program.
- 14 Recommended. (sec. 48)
- 15 Recommended (sec. 7 and sec. 48)
- 16 A change to eliminate an inconsistency in the statute relative to the two-mile survey control points is recommended (sec. 10). This provision will govern the recommended survey requirement for the homestead program (sec. 35). It is recommended that the state comply with all local subdivision regulations (sec. 46).
- 17 The definition of "cadastral" is highly technical and subject to various interpretations having considerable budgetary implications. More study is required and no change is recommended at this time.
- 18 Recommended (sec. 11 and sec. 46)
- 19 Recommended (sec. 12 and sec. 26)
- 20 Because the planning process takes considerable time (1-3 years per area plan) and there is so much state land, prohibiting actions such as disposals pending completion of plans appears impractical. However, it is recommended that monies be made available to complete plans and that the Administration put forth greater effort to expedite completion of area plans.

- 21 Public hearings have been held as part of all planning efforts to date. Mandated public hearings are not recommended but additional policy language recommended (sec. 2).
- 22 Because the permanent retention of land requires legislative action and because several state land designations currently exist, no new categories of land without consideration of specific lands and resources involved are recommended at this time.
- 23 Not recommended at this time. See comment no. 17.
- 24 Recommended (sec. 13).
- 25 Removal of the exceptions to "best interest" findings is recommended except for revocable permits less than one year where no significant impacts would occur. The one-year period is arbitrary and should be studied further, however. (sec. 15). Best interest findings should administratively reflect social and economic impacts and benefits.
- 26 Recommended (sec. 16)
- 27 No significant problems associated with this provision were identified. No changes recommended.
- 28 Timber leasing program is still believed to be the best method of managing timber resources as it retains future options on land management after timber has been harvested. No changes are recommended.
- 29 Although locally held lotteries present obstacles for non-local people to participate, lotteries continue to receive substantial applications from non-local persons. At the same time, it is felt locally held lotteries provide a preference for local people which increases utility of state land and reduces speculation. No change recommended.
- 30 Recommended (sec. 17).
- 31 Recommended (sec. 17).
- 32 Because of the importance in determining fair market value for land sales, it is felt consultation with local assessors is not unreasonable. Unless excessive time or costs are involved, no change is recommended.
- 33 The problems resulting from the discount program are believed to outweigh the benefits of reduced-cost sales of state land. Additionally, the "sweat equity" provisions of the current homesite and homestead programs provide

opportunities for persons to obtain land without paying a fair-market-value price. Interest and participation in land sales has generally continued since repeal of the discount program, and it is anticipated that appraised values may stabilize in the future as demand is more accurately reflected without the discount.

The suggestion for a rebate-type system based on improvements bears further study. But as a direct alternative to the homesite and homestead programs, it would necessitate yet another programmatic change, possibly disrupting on-going disposal programs. The rebate based on year-to-year residence is just a legal alternative to the residency discount program. No change or new discount program is recommended at this time.

- 34 Although land interest rates have been generally higher than state loan programs, they have been based on AAA bond sales which have consistently been below "market" or standard bank loan rates. Because it is difficult to assess how much state land sales should be "subsidized" because other state loan program interest rates vary considerably, no change is recommended at this time.
- 35 Recommended (sec. 19).
- 36 Although not utilized significantly, the repeal of the veterans preference sales is not recommended at this time. With the residence discount program repeal was also the repeal of the veterans price discount leaving only this special sale preference remaining for veterans.
- 37 Recommended (sec. 20 and sec. 48).
- 38 Although \$250/year may be too conservative a figure, \$5000/year is believed to grant too much authority. More study and discussion is needed. No change recommended at this time.
- 39 No justification for this change was identified. No change.
- 40 Although conversion of the remote parcel program to the homestead program will involve substantial administrative effort, it is believed that the transition can be made by July 1, 1984, and that some homestead parcels can be offered in the spring of 1984. The change recommended in the survey requirements for homestead entries (sec. 35) should permit full conversion of remote parcel areas to homestead entry areas.
- 41 The remote cabin permit program should be implemented by the DNR and specific areas classified for such use. One impediment to implementation may be the requirement that permits must be for at least a 25-year period. As this

time length might have the same practical effect of disposal, it should be reviewed and discussed further and possibly amended in statute. The exclusion for revocable permits in "best interest" findings is recommended for substantial amendment (sec. 9).

42 Recommended (sec. 21)

43 Recommended (technical amendment to SB 222 or SB 133).

44 The definitions of "public waters" and "navigable waters" are debatable and raise complex legal and technical issues. Rather than legislative changes, it is recommended that the Administration clarify its policies specifically for municipal land conveyances to minimize easements where public uses will be continued and/or local governments have the ability to reserve public easements.

45 Recommended (sec. 27)

46 Recommended (sec. 26 and sec. 12)

47 The terms for leasing different minerals track federal procedures and reflect certain differences in the nature of the particular mineral. No particular need for altering the provisions was identified and no changes are recommended.

48 Recommended (sec. 1 of proposed mining bill).

49 Although this change could be made, the uncertainties of subsurface resources do not lend themselves to usable quantification at the time of leasing. Because adjacent resources would normally be administratively considered and because public comment on leasing would be solicited, no change is recommended at this time.

50 A major revision of the 1872 Mining Law (on which the state location system is based) has been debated and studied for years in the Congress and in Alaska by the former Joint Federal-State Land Use Planning Commission. The problems identified for altering the present system are substantial and no workable alternative has yet been developed. However, current state law does provide for leasing when resource conflicts exist or the lands were mineral in character at the time of selection.

Mineral taxation policy must be viewed in the context of the minerals involved. Hard-rock minerals involve substantially different location, development and economic conditions and returns than oil and gas resources. Low revenues from the state's Mining License Tax were found to reflect the current scale of mining operations and possible enforcement problems as much as the tax rate per se. Although the current mineral tax policies could be reviewed in light of current exploration, development

and production, no changes in tax policy or in leasing provisions are recommended at this time.

- 51 Implementation of a leasing program is proceeding under an additional two-year extension passed by the Legislature last session. Litigation has recently been initiated calling for compliance with sec. 6(i) of the Statehood Act (reflected in 38.05.185) dealing with mineral leasing. While use of a leasing program is supported where significant resource conflicts or where highly mineralized areas exist, most lands are recommended to remain open under the traditional claim-staking and production system. In light of current law, administrative action and pending litigation, no changes are recommended.
- 52 Recommended (sec. 2 of mining bill).
- 53 Recommended (sec. 3 of mining bill).
- 54 Recommended (sec. 4 of mining bill).
- 55 Recommended (sec. 28 and sec. 48 of Title 38 Lands Bill)
- 56 Recommended (sec. 6 of mining bill).
- 57 Recommended (sec. 5 of mining bill).
- 58 Recommended (sec. 7 of mining bill).
- 59 Recommended (sec. 8 of mining bill).
- 60 Recommended (sec. 9 of mining bill).
- 61 The definition of "essential facts" should be clarified in DNR regulations. No change recommended.
- 62 Recommended (sec. 10 of mining bill).
- 63 The issue of ownership of tailings is complex and warrants further study. No changes recommended at this time.
- 64 Recommended (sec. ~~11~~ of mining bill).
- 65 On at least one occasion in the past, DNR administratively closed large areas (the pipeline corridor) to mineral location and other uses by closing many individual 640-acre adjacent parcels. This practice has not occurred in recent years. AS 38.05.300 bars closings of 640 acres or more to "multiple purpose use". There has continued to be debate over what uses or how many uses constitute "multiple use". For example, the DNR maintains that closing lands just to mineral location is permitted under AS 38.05.185, does not constitute a "multiple purpose use" closure, and would not be limited to the 640 acres under 38.05.300.

The statutes are ambiguous and possibly conflicting on this issue. However, much more study and discussion are needed to determine overall policy goals prior to any legislative changes.

- 66 Recommended (sec. 30). This change might require additional clarification relative to the comments for no. 65 above.
- 67 Although some commenters favored additional local review boards, others criticized the proposal as costly and unnecessary in light of current public hearings and review procedures. Others specifically felt the CRSA Boards were inappropriate bodies and that they are not present in Interior Alaska. Most disagreed with providing any such board with veto authority over disposals. It is recommended that DNR involve existing boards such as CRSAs in the review of disposals, but that no statutory requirements be added at this time.
- 68 Recommended (sec. 31).
- 69 Recommended (sec. 32). In addition, actions to be noticed are recommended to be made more inclusive similar to "best interest" findings. (sec. 33 and sec. 15).
- 70 Recommended (sec. 48).
- 71 Public hearings are held in most significant disposal actions under current administrative policy. Because many types of actions are to be covered under the notice section, and because public hearings can be very costly and not always useful or appropriate, it is recommended that mandated hearings not be required in statute. A policy for public input, including public hearings, is recommended to be strengthened (sec. 2).
- 72 Recommended (sec. 48).
- 73 Recommended (sec. 48).
- 74 Not recommended. See comment no. 44.
- 75 Loans for clearing ag lands can be made currently from the Agricultural Revolving Loan Fund. However, the clearing monies appropriated for the large project ag (Delta and Point McKenzie) are not scheduled to be returned to this Revolving Fund. Although it may be too late to place these funds into a revolving fund, the issue should be studied further and use of the existing Revolving Fund considered in making appropriations for future project ag clearing.
- 76 This approach has been used by the Kenai Peninsula Borough in an effort to stimulate development and provide discounts on the purchase price of land in lieu of the court-stricken residency discount program. See discussion

- for comment no. 33. No statutory changes recommended at this time.
- 77 It was found that although the "prove-up" requirements differed, they did not involve significant differences in the equity of the programs. A change in the homesite requirements might result in more public confusion and administrative costs and is not found to be warranted.
- 78 Recommended (sec. 34).
- 79 Recommended (sec. 35). Language requiring a finding by the Commissioner based on survey costs and topography might also be considered.
- 80 The spacing considerations were strengthened in the policy section (sec. 3).
- 81 Not recommended. See comment no. 76.
- 82 The current anti-speculation provisions of the homestead program are believed to be an appropriate balance between public goals and private land ownership prerogatives
- 83 Recommended (sec. 46).
- 84 Recommended (sec. 36).
- 85 Application processing reimbursement is recommended, but a statutory fee is believed to be too rigid for all application cases. (sec. 38).
- 86 Recommended (sec. 38).
- 87 This approach is believed to be too restrictive, especially for minor trades, and would unduly delay some proposed land trades. The authority to trade lands should be no more restrictive than the ability to sell or dispose of lands. No change recommended.
- 88 Recommended. However, 640 acres is recognized as an arbitrary figure and some smaller size might be considered. (sec. 39 and 44).
- 89 Recommended (sec. 39).
- 90 Recommended (sec. 41 and sec. 42).
- 91 Recommended (sec. 43).
- 92 Recommended (sec. 45). Additional guidance in the exercise of this authority might be included in the proposed change such as consideration of other users, private land and wildlife resources.
- 93 There is existing authority in statute to grant cabin

- leases and permits for these uses. No change recommended.
- 94 The change is recommended although the technical language requires additional time to develop and review. This change will be contained in sec. 37.
- 95 Recommended (sec. 11 of mining bill).
- 96 This suggestion appears to have merit and is currently being reviewed and developed by the Department of Law and at least one major private landowner. This change should be considered for addition to the land bill when draft language is available.
- 97 Current statutes, administrative personnel policies and specific DNR policies address and prohibit various potential conflicts-of-interest. These are currently believed to be adequate for the disposal programs.
- 98 Additional stipulations are authorized for lottery sales in addition to the homestead program which could be used to curb speculation (AS 38.05.057(i)). Although no statutory changes are recommended, the DNR is urged to consider utilizing its authority for lottery sale restrictions when significant speculation is believed to be occurring and intended uses of state land are not taking place.
- 99 Recommended (sec. 48).
- 100 Legislation addressing the Anchorage entitlement problem is currently being developed as a separate bill. Due to the complexities and controversy over this issue, it should be considered independently of this legislative proposal.
- 101 Recommended (sec. 30).
- 102 This problem relates more to funding for surveys than statutory problems. However, the ability of municipalities to receive title to unsurveyed lands should be studied further and considered to expedite certain municipal conveyances.
- 103 Recommended (sec. 46 and 47).
- 104 Recommended (sec. 8)
- 105 Coal reclamation laws stem from specific federal law and are geared at extraction methods and conditions particular to coal. There currently exists authority for DNR to impose land use practices, including reclamation, for other mining activities as part of its permitting. Although certain reclamation practices should be considered for general application for most mining activities, new comprehensive legislation is not believed warranted at this time.

- 106 Specific legislative language to clarify the intent needs further study and development. DNR regulatory changes should also be pursued to clarify conflicts-of-interest. See also comment no. 97.
- 107 Recommended. (sec. 12, mining bill).
- 108 Recommended (sec. 13, mining bill).
- 109 More technical work needs to be done to identify needed legislative changes.
- 110 Recommended (sec. 13, mining bill).

ADDITIONAL RECOMMENDED CHANGES

- 38.05.055 Sales of land generally must be at fair market value. Under current auction sale procedures, the bidding is started at the appraised or fair market value. Without the residency discount this has resulted in lackluster bidding and theoretically, sales above "fair market value". The Fairbanks Borough currently permits bidding to begin at 85% of the appraised value. It is recommended that the state be permitted to sell land by auction at 90% of the appraised or fair market value. This would permit bidding to begin below appraised value and rise to a more "natural" level. (sec. 18).
- 38.04.020 It was suggested that the DNR be permitted to sell larger parcels to private developers who would, in turn, perform surveys, build roads and sell lots. This method would reduce state development upfront costs, ensure compliance with local ordinances, expedite land disposals and utilize the expertise of private developers. Possible methods might include putting out land for bids similar to the "request for proposal" contract process and selecting the proposal offering the state the most for the price. Another method might be to auction off a tract of land to the highest bidder who would have to meet certain stipulations in the development of the land reflecting current state laws and policies.

A separate draft bill has been developed and circulated for further review outlining the latter approach. If general agreement on approach and language can be worked out, this provision should be incorporated in the Title 38 Land bill.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
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## Senate

### Committee on Resources

May 11, 1984

Al Adams, Chairman  
House Finance Committee  
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Juneau, AK 99811

Dear Al:

As prime sponsor of SB 375, An Act relating to land disposal and management, I have closely monitored its progress since it received Senate Resources Committee approval in late February. This bill, which is a product of the Committee's interim work on the State's land statutes, and received extensive public review before being acted upon by the Senate, was substantially amended by the House Resources Committee. While I applaud the House Committee members for their interest in this important piece of legislation, and support many provisions they adopted as improvements to the bill, I ask that you consider the following:

AS 38.04.010(b) (Section 4) addresses settlement beyond the range of public services, and provides criteria for determining density of residences. The Senate version of the bill, which asks that the Department consider the availability of timber, water and firewood resources in determining density, is intended to ensure that resources critical to remote living are present. An amendment in House Resources added "fisheries" as a criteria. Aside from the practical and financial problems with requiring that fisheries availability be considered, the availability of any food source, particularly one in isolation from the entire food chain, is uncertain and not critical to one's ability to live in a remote area.

AS 38.04.35(4) (Sec. 10) is intended to encourage use of the state's remote cabin program. Such use is currently limited to situations where survey and conveyance are impractical. I believe that the House language added on page 5, line 21, furthers this intent, but the sentence is now poorly structured. I suggest deleting "require additional conditions" on line 23.

AS 38.50.020(a) (Sec. 69) provides for the exchange of state land for other lands to be based on equal appraised values, or if not, to be submitted to the legislature for review. The House version of SB 375 would mandate legislative approval for each exchange, whether of equal or unequal value, above a specified threshold (500 acres or more than \$1 million). While I agree that legislative oversight is important, and support the current statutory provision that requires notice to legislators of exchange actions, I feel that setting an arbitrary threshold and mandating legislative approval will merely complicate an already lengthy process involving sensitive negotiations. I maintain that the greatest need for legislative oversight is in exchanges for lands of unequal value, and would support restoring this language to its current statutory form.

Current statute authorizes the Commissioner to require a development plan for sales of state agricultural land. AS 38.05.020(b)(7) (Sec. 15) would allow the Commissioner to modify agricultural development requirements under specified conditions. My understanding is that this language is intended to address the recipients of agricultural land in Gustavus who because of their isolated location and lack of transportation to markets are unable to economically develop their farms. As drafted, however, this language could apply to any state agricultural project in its developmental stages. I would support amending this section (page 8, line 24) to read "...if the land is inaccessible by road and [or] transportation, marketing, and development costs render the required development.."

AS 38.05.059 (Sec. 23) has been amended to provide for issuance of a fee simple conditional title for agricultural land. I do not feel this approach is consistent with the state's current agriculture policy. I am aware that under the "agricultural rights" title currently issued by the State, private financing for home construction has been difficult to obtain (land purchase and development loans are available from the state), but I am not convinced that fee simple title is the solution. The bank's willingness to loan is affected also by the state's position as primary lienholder, and the credit worthiness of purchasers who have large clearing and development loans outstanding to the State. The Senate Resources Committee is looking at the financing problems in a separate bill, HB 458, and I feel this concept is complex enough to require consideration on its own merits. A hearing is scheduled on HB 458 for Monday, May 14th. I urge deletion of Section 23 from SB 375, and ask that the following conforming amendments also be made:

- ✓ Page 11, line 6. Restore to current language.
- ✓ Page 52, line 11. Delete repeal of 38.05.321(a).

AS 38.05.940 establishes a 25% discount on land purchases to qualified veterans. The House version (Sec. 88) makes the discount retroactive to March 31, 1983, the date of the court's ruling on the unconstitutionality of the State's general discount program. If this retroactive provision is enacted, the Department

of Natural Resources estimates a loss to the state of \$2.1 million in principal payments and \$3.1 million in interest payments over the next 20 years, plus a cost of \$283,500 for contract conversions required by the amendment. While I agree that there are compelling reasons to grant a discount to our veterans, I am concerned that the costs the State would incur through this retroactive provision are substantial enough to justify that the discount be prospective only.

AS 38.95.080(a) directs the Commissioner to issue a trapping cabin permit to any applicant with an established trapline of sufficient length to justify cabin construction. The Senate version of SB 375 made this authority discretionary. I have no objection to the issuance of trapping cabin permits for serious trappers when needed, but the current statute (which is maintained in the House version) prohibits the Commissioner from denying a permit when resource or use conflicts may occur, or when the furbearer population is unable to sustain the intensive

trapping brought about through cabin use. I support giving the Commissioner an opportunity to review each permit application, and urge restoring this provision to a discretionary authority.

Section 82 adds a definition of "exchange" to Title 29, Municipal Government. This section should be deleted. In addition to being inappropriately located, current statute (AS 38.50) adequately specifies what constitutes an exchange. This is not an instance when a term is used so broadly or vaguely as to require definition.

Section 85 of the House version incorrectly references "Sec. 22". The reference should be to "Sec. 25".

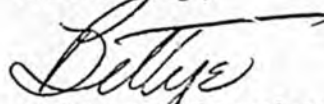
SB 222, which also addresses Title 38, was prepared by the revisor of statutes. Generally, the bill reflects changes in drafting style ("commissioner" rather than "director", "department" rather than "division", "land" rather than "lands") and deletes obsolete references (to repealed statutes and to "university lands" per passage of 1983 legislation giving the university management authority over its lands). In addition, the Senate Finance Committee substitute authorizes DNR to contract for construction of firewood access roads, a function currently held by DOT. SB 222 has been reviewed by our legal division to ensure that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375. Passage of both will facilitate work currently being done in preparation for the reprinting of the Title 38 pamphlet this summer.

I would like to call your attention to the attached information regarding conversion of leases that I provided to the House Resources Committee during their deliberations on SB 222. I cannot support any amendment which provides such benefits to anyone at the expense to the State.

Representative Al Adams  
SB 375  
Page 4

I wou'd appreciate your scheduling a hearing on both SB 375 and SB 222. I have attached information on the bills and will be happy to discuss them with you at your convenience.

Sincerely,



Bettye Fahrenkamp  
Chairman

BF:ss

TESTIMONY OF ESTHER C. WUNNICKE,  
COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES  
ON HCS CSSB 375 (RES)  
(LAND MANAGEMENT AND DISPOSAL)  
BEFORE THE HOUSE COMMITTEE ON FINANCE  
May 16, 1984

Mr. Chairman, members of the Committee, I am appearing today to address issues in HCS CSSB 375 (Res), which proposes a number of amendments to the Department's land management and disposal statutes. The Department was closely involved as the Senate Resources Committee developed the bill and has worked with the legislative committees that have reviewed it. I am pleased to have this opportunity to discuss the bill with you, and to present four proposed amendments. I understand that several other Department concerns have been addressed in the Committee Substitute for the bill, so I believe my testimony today supersedes the Department comments delivered to you and the Committee over the weekend.

Generally the Title 38 bill has my strong support. It incorporates some important changes to the state's land disposal process, by requiring compliance with borough and municipal ordinances regarding planning, platting, and capital improvements. It also includes a very important provision that will allow the commissioner of DNR to quitclaim lands back to the federal government that we should never have received, such as Native allotments and mining claims. We look favorably upon new leasing provisions that will foster more intensive use of state lands by permitting the Department to implement a prequalification process and to provide a preference for leasing state tidelands to upland owners. Some of the land exchange amendments will also reduce the expense and complexity of our land exchange process.

Several provisions within the bill concern me, however, and I now turn to these concerns.

Land Exchanges

The bill would require Legislative approval for all land exchanges and exchange agreements involving 500 acres or a million dollars worth of state land. I see this as an unnecessary, time-consuming, and expensive legislative approval that will handicap the Department in its land and resource management. I believe that the Legislature should indeed oversee our performance as the State's land manager, including land exchanges, but I do not believe that the Legislature should become a signator and approver -- as it would under this amendment -- of such land and resource management decisions.

The Legislature already has the tools at its disposal to exercise control over land exchanges. Recently, we notified each legislator, as is our usual practice, of the proposed land exchange with the Seldovia Native Association at Kachemak Bay State Park. The notification included full information on the lands proposed for exchange. If, based on this information and contact with the Department, the Legislature determines that the proposed exchange represents bad policy, I can

accept its judgment and put a stop to the exchange. On the other hand, I do not believe that two legislative approvals (for the exchange agreement and the exchange itself) should be required before the Department proceeds with the exchange.

Particularly in Alaska, where the land ownership pattern is complex and only beginning to settle down, land exchanges are an important land management tool. Native corporations, the State, private owners, and the federal government can consolidate their lands and improve the likelihood of sound land development or conservation by negotiating land exchanges. The exchange process already includes several public notice and hearing opportunities, and as a result is slow and costly. The addition of two required legislative approvals will make the process more cumbersome and even less attractive to land managers and owners, and will provide, in actuality, no greater powers to the Legislature in land management than it already has.

I have put my suggestions for improving the land exchange provisions in the bill as specified in our attached amendment 1. Our first proposal would be to eliminate the provisions for legislative oversight of any equal value exchanges or exchange agreements, so we would endorse the language in the Senate version of the bill. Our second proposal, if the first is not acceptable to you, is to change the threshold for exchanges requiring legislative approval to \$5 million and to remove the requirement for approval of exchange agreements.

#### Preference Rights

The bill provides for a new preference right that would provide an applicant -- usually a sport hunting or fishing guide who has had a lodge on federal land that has come into state ownership -- with an assured right to state land. I am supportive of preference rights and do not object to providing for these guides and other permittees when their situations merit such action. However, I am concerned about the proposal that is before you. It would create a new class of about 100 preference right applicants who would have priority over 300 other preference right applicants who have already come to the Department for land.

The timing for creating a new class of claimants is not good. The Department's preference right project was eliminated by the Legislature last year, and we are able to handle preference right applications only on a time-available basis. If the Department is going to catch up on its backlog of applications and meet the new demand created by the preference for guides, the language before you should be amended (see our amendment 2).

#### Foreclosure on Contracts

At this time, the Department does not have a smooth foreclosure mechanism for regaining lands when purchasers fail to make payments. After a thorough review of the language in the House and Senate versions

of SB 375, and discussions with the Attorney General's office and Representative Bussell's staff, we have developed language (attached as amendment 3), that we think provides a fair, workable mechanism for foreclosing on delinquent purchasers and terminating their land contracts. I do not think that this language will prove controversial and hope that you will see fit to include the new language in your version of the bill.

#### Agricultural Rights

The bill before you includes several sections (Secs. 15, 23, and 27) that are also found in HB 458, which is Representative Bettisworth's bill on title to agricultural lands. We have supported Representative Bettisworth's effort to clear up problems related to agricultural rights obtained from the State, and we defer to the Legislature on whether the provisions should be made a part of the bill before this committee. Our only recommendation, concurred in by Representative Bettisworth, is that Section 23 be revised to reflect the Senate version, as the authorities existing within this section of law are potentially useful to the commissioner in conveying interests beyond the agricultural interests conveyed in state lands. This is our amendment 4.

#### Survey

The Department supports the survey language that is currently in the bill. My staff has met with the surveyors who are proposing language to require land disposal by aliquot parts where there has been a waiver of cadastral survey and control monumentation requirements. This would be eventually more expensive and burdensome to the entryman on State lands. When the survey requirement is waived because no survey exists or needs to exist, the disposal should be by the most logical method -- including aliquot parts where appropriate. But to require disposal by aliquot parts is to create potential ownership conflicts down the line, due to the uncertainty of the exact boundary. The description of disposal parcels in unsurveyed areas should be by metes and bounds based on physical characteristics of the parcel, to prevent these eventual conflicts.

#### Veterans' Land Discount

The bill provides for a land discount for veterans. Although the Department has no objection to such a discount, I strongly recommend against making it retroactive to last March for several reasons.

First, in the 14 months since the discount programs were ended last April on the basis of an Alaska Supreme Court decision finding Kenai Borough land discounts unconstitutional, about 1500 persons have purchased land from the State with full knowledge that the discounts were no longer available. There is no inequity for these purchasers who bought land knowing the conditions. To provide them a discount now, however, would be an inequity to others who did not buy land in our programs because it cost too much.

Second, there is expense in refunding money to purchasers who have purchased land from the State and now would qualify for a discount. We have computed that we would owe about \$60,000 to purchasers who have bought land, paid in full, and deserve a refund. This cost is not reflected in the fiscal note because I understand that the retroactivity provision has been removed in your Committee Substitute.

Third, there is a past and future cost -- about \$1.66 million for the past 14 months -- in providing a 25% discount to the estimated 40% of state land purchasers who are veterans. We will lose this income to the state, and another \$2.5 million in income, by making the discount retroactive. The estimated annual displaced income of the future retroactivity clause is about \$500,000 per year, as reflected on our fiscal note for HB 529, which passed out of your committee earlier this session.

#### Fiscal Implications

I have submitted a fiscal note for SB 375 that would provide adequate funding for the Department to carry out well the provisions of this statute. The major fiscal issues relate to leasing prequalifications and tidelands leasing, preference right processing, quitclaim review and processing, foreclosures on delinquencies, and management of the veterans' discount program. In every case, we expect the State to reap higher revenues or provide better service to its citizens in the future because of these changes.

The Department of Natural Resources of the State of Alaska is now the third largest land management agency in the United States, with a land base twice as large as it was just three years ago. I say this not to impress you, but to show how great is our need for funding to take care of Alaska's lands. I hope that you will consider our fiscal note on its merits, and I will be pleased to provide more detail if you request it.

In summary, SB 375 has my support, but needs a few amendments. With these proposed amendments, the bill reflects a fair and balanced set of land management actions that will be a credit to the 13th Legislature. I commend you for your work.

DNR AMENDMENT 1  
LAND EXCHANGE PROVISIONS IN  
HCS CSSB 375 (Res)

Four parts:

1) To eliminate requirement for legislative approval of land exchanges and exchange agreements:

Delete Sec. 69 of the bill, or delete all new language on p. 44, lines 20-24, and insert instead "of State land with an appraised fair market value of more than \$5,000,000 or an exchange for other than equal appraised fair market value is not binding on the State until approved by the Legislature."

2) To reduce required public hearings:

Change three back to one at p. 46, line 23. End the sentence after "exchange," line 24.

3) To eliminate legislative approval for land exchange agreements:

Delete language added on lines 9-10, p. 47.

4) To remove definition of land exchanges as including only agreements and out-of-court settlements:

Delete lines 24-26, p. 49, and renumber following subsections.

DNR AMENDMENT 2  
PREFERENCE RIGHTS IN  
HCS CSSB 375 (Res)

Two parts:

1) To shorten deadline for some preference right applications:

Change "five" to "three" at p. 10, line 2.

2) To provide discretion in conveying lands by proposed preference right:

Change "shall" to "may" at p. 13, line 1.

DNR AMENDMENT 3  
FORECLOSURES ON DELINQUENCIES IN  
HCS CSSB 275 (Res)

Two parts:

- 1) To provide certain mechanisms for foreclosure:

Delete "the provisions of (d)-(f) of this section" at p. 16, line 9, and restore the language that was proposed for deletion at p. 16, lines 9-11.

- 2) To provide a workable mechanism for foreclosure and termination of contracts:

Replace wording in Sec. 25 with the following language:

(d) If a contract for a sale of state land has been breached, the director may issue a decision to foreclose and terminate the contract at any time 31 days after delivering by certified mail a written notice of the breach to the address of record of the purchaser. A breach caused by the failure to make payments required by the contract may be cured within 30 days after the notice of the breach has been received by the purchaser by payment of the sum in default together with the larger of a fee of \$50 or five percent of the sum in default. If there are material facts in dispute between the state and the purchaser, the purchaser may submit a written request for a public hearing for the review of the facts within 30 days after the notice of the breach has been received.

(e) On a determination that there has been a breach of the contract based on the administrative record and the evidence presented at a hearing, the director shall issue a decision foreclosing the interest of the purchaser and terminating the contract. The obligation to make payments under the contract continues through the date of the decision to foreclose by the director.

(f) The director shall personally serve the decision to foreclose and terminate on the purchaser, or send it certified mail, return receipt requested to the address of record of the purchaser. If the breach is a failure to make payments required by the contract, the decision shall include a notice to the purchaser that if within thirty days the purchaser pays to the state the full amount of the unpaid contract price, including all accrued interest, and any fees assessed under subsection (d), then the department shall issue to the purchaser a deed to the land. If full payment is not made within thirty days, or the breach is for other than failure to make payment, then the decision to foreclose and terminate shall terminate all legal and equitable rights the purchaser has in the land.

(g) The purchaser may appeal the director's decision to the commissioner within thirty days. The final decision by the department is reviewable under AS 44.62.560 by the Superior Court.

DNR AMENDMENT 4  
AGRICULTURAL CONVEYANCES IN  
HCS CSSB 375 (Res)

To reserve powers for conveying certain agricultural lands:

Adopt Senate version of Sec. 27, attached.

DNR AMENDMENT #4  
Substitute language for Sec. 27  
HLS CSSB 375 (Res)

8 (c) Under this section

9 (1) the director may convey or lease an interest in the  
10 land only for agricultural purposes, and all other interests in the  
11 land remain in the state;

12 (2) the sale or lease shall be at public auction;

13 (3) [(2)] the remaining interests may subsequently be  
14 conveyed or leased by the director only upon the request of the gran-  
15 tee or lessee or the [HIS] assigns of the grantee or lessee and the  
16 determination of the director, with the written concurrence of the  
17 commissioner, that the conveyance or lease is in the public interest;

18 (4) [(3)] the conveyance or lease of the remaining inter-  
19 ests shall be at public auction;

20 (5) the original grantee or lessee or the [HIS] assigns of  
21 the grantee or lessee have a preference right to meet the high bid at  
22 the time of [WITHIN 30 DAYS AFTER THE DAY OF] the auction;

23 (6) if the preference right is exercised, the value of  
24 improvements owned by the holder of the preference right, included  
25 with the remaining interests sold, shall be deducted from the purchase  
26 price;

27 (7) [(4)] by requesting the conveyance or lease of the  
28 remaining interest, the original grantee or lessee or the [HIS] as-  
29 signs of the grantee or lessee

1 (A) consents to the sale or lease, and

2 (B) if the preference right provided by (5) [(3)] of  
3 this subsection is not exercised, consents to sell at fair  
4 market value the improvements related to the remaining  
5 interest, as appraised by the director;

6 (8) [(5)] the remaining interests in the land may not be  
7 conveyed or leased for less than their appraised value together with  
8 improvements except for the deduction allowed by (6) [(3)] of this  
9 subsection.

*Se*

# Senator Vic Fischer

Alaska State Legislature  
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



January 20, 1983

TO: Senator Bettye Fahrenkamp  
FROM: Senator Vic Fischer  
RE: Title 33 Lands Bill

Thank you for the opportunity to comment on the proposed legislation that has developed out of the Title 38 hearings. You and your staff are to be congratulated for the excellent work that has been done in translating problems and concerns into positive legislation.

This memo refers only to the lands bill; I will have comments on the mining bill shortly.

In general, I support the legislation as drafted. It reflects very well the testimony that was presented to the committee. There are a few places, however, where I have comments or suggestions.

#36 in your list of proposed changes has to do with the provision for veterans' preference. Your recommendation is to continue the program in 38.05.067, even though it is not used by DNR, because it is the only program that remains to benefit veterans. I would like to propose instead that that section of law be repealed and a new section added to provide for a veterans' discount. I am attaching a copy of SB 324, which provides for such a discount. I believe that such a discount is vastly more agreeable to all parties than the preference in .067.

Section 8 of the draft bill would add a new section, Funds for Land Disposal. While the intent is to provide funds for the costs of the state disposal programs and grants to municipalities, and the narrative mentions a revolving loan fund, this section would in fact only set up a new account in the general fund from which the legislature would appropriate. It seems to me that this would create a more cumbersome accounting system while doing nothing to guarantee any level of funding, and I suggest that it be deleted.

There are several sections of the bill that I strongly support and hope will be retained. These include sections 12 and 26 (providing for retention of land in state ownership for public access); section 30 (closing municipal lands to mineral location); and the sections eliminating percentages of land disposals in the various programs, providing for considerations of the land's carrying capacity and other resource values, and compliance with local ordinances.

There are a couple of issues that the bill does not address that I would like the committee to address in some form at some time. One is #75,

*Nancy:  
already  
have authority*

JAN 25 1984

*good idea*

relating to clearing loans. I agree that this needs further study and I would like to see eventual action that would provide equal treatment for those clearing agricultural lands, whether in an ag project or elsewhere. Another is #50, relating to a leasing system for mineral development. This is a complex and controversial issue, and I believe the committee would benefit from a briefing on its history and the pros and cons of the two systems.

Relative to the separate bill that would allow development of state lands by private developers, I have mixed feelings. While it is one way to provide for adequate roads and services that the state seems unable to pay for, I am wary of the possibility of giving "windfalls" to individuals in this manner. I would like the committee to explore other ways of addressing this problem, including perhaps better cooperation with municipalities and/or better state funding. The goal, as I see it, is for those who benefit from the disposals to bear the costs.

Again, I congratulate you and your staff on a job well done.

S

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SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 378*

BILL NAME: *Relating to agricultural and industrial  
fairs*

SPONSOR(S): *Ferguson*

DATE INTRODUCED: *1-26-84*

REFERRALS: *Resources  
Finance*

RELATED BILLS PENDING:

*HB 538 - SHULTZ*

*1-24-84*

*Resources  
Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

AGENCY RESPONSE:

SUMMARY BY LEGAL DIVISION:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

STAFF MEMO TO COMMITTEE:

BACKGROUND MATERIAL DISTRIBUTED:

LIST OF WITNESSES:

*Janet Baird*

DATE AND PLACE SET:

TELECONFERENCE:

PSA/PRESS RELEASE:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

M E M O R A N D U M

TO: Sandra

FROM: Edie *Edie*

RE: Fair bills

DT: Feb. 15, 1984

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House Resources took no action on the Fair bill. After Janet Baird testified, Schultz proposed a committee substitute adopting her recommendations. She recommended that the four options for qualifying as a fair association be considered one option, i.e., replace the ors with ands.

Vaska objected because Yukon Kuskokwim Fair Association does not, and has no reason for doing, livestock.

Uehling objected because it would disqualify the Fur Rendezvous. He did not come out and say this but it was implied. Apparently, Fur Rendezvous raised \$75,000 in '83 for '84 Rendezvous. The State matched that amount which left the other fair associations with little money left to compete for.

John Manley says the hidden agenda in these bills could be an attempt either to eliminate Fur Rendezvous' eligibility or enhance the agricultural-type fairs ability to compete for matching state funds.

The bill has not been rescheduled because Ringstad wants to give Janet time to work something out. We will probably want to contact her and find out if we should stay with our original plan to hear Ferguson's bill next Wednesday.

Testimony of Janet Baird, Manager, Tanana Valley State Fair Association.  
House Resources Committee Hearing ~~HB-538~~ <sup>SB 378</sup>  
February 14, 1984  
22

The Tanana Valley State Fair is the oldest Fair in the state of Alaska, being incorporated in 1924. Fairs were held in Fairbanks as early as 1908, 1910 and 1913. The Tanana Valley Fair was around when the subject we are addressing today came into being.

The history of Territorial, then State, aid to Fairs was set in motion in the 1920's and the 1930's because the government recognized that Fairs are a tool for promotion and showcasing of agricultural development. Although that point may seem self evident, a look at other states where big Fairs and big agriculture exist side by side reinforces it. A generally accepted rule of thumb is that Fairs increase the on-the-farm production in their areas by a minimum of 10%. That stimulus comes about through the competitive and educational exhibits.

Aid to Fairs in Alaska has always been agriculturally related.

Aid to Fairs has been a "good" kind of state investment, requiring equal match from the local Fairs. 25% of the aid received is also mandated to be paid back to individual exhibitors in prize premiums. The Tanana Valley Fair now pays about 33 1/3 % back in premiums. The state has received not only the 1:1 match required by statute, but up to 10:1 or more in local match through volunteer time and donated time and materials and services.

The definition of Agriculture Fairs in ~~HB-538~~ <sup>SB 378</sup> is based on research of the statutes in all 50 states. The basic research was done at the Tanana Valley Fair and adopted by Associated Alaskan Fairs, Inc., a statewide organization of Fairs.

The Tanana Valley State Fair Association favors the concept of the agriculture fair definition in ~~HB-538~~ <sup>SB 378</sup>. There is one critical wording change to call to your attention: Section 1 -(d) - (2) line 15: the word "or" should be "and". The intent of this phrase, and of the entire Section 1, is to make the list of exhibits cumulative and inclusive.

We would also suggest the addition of a sixth category of exhibits: "culinary exhibits such as canned vegetables, jam, breads, cakes etc."

FEB 17 1984

and the explanatory words "sewing, knitting and <sup>quilting</sup> ~~quilts~~" following the category of "household arts".

With these suggested changes, the Tanana Valley State Fair strongly supports <sup>SB 378</sup> ~~HB 538~~ and asks your favorable action on this bill.

Adoption of a definition of Fairs for funding purposes should bring order to the proliferation of events being funded as agriculture Fairs. In recent years funding for long term bona fide agriculture Fairs has steadily eroded because an ever increasing number of events have been included in an ever dwindling budget total. That makes no sense. Either Fairs qualify as agriculture Fairs, and they meet the statutory application dates, or they don't. If events that don't qualify are to be funded by legislative inclusion, then the total appropriation must be increased.

Through the years the Tanana Valley Fair has qualified and matched aid as specified in the statute: Aid in the amount of \$3000 annually was matched through 1966. From 1967 through 1972 we matched \$10,000.00. From 1973 through 1979 we matched \$25,000.00. In 1980 the statute was changed and aid raised to \$75,000.00 and that amount was received in that year. In 1981 we matched and received \$73,650.00 a 2% decrease. In 1982 we matched and received \$69,910.00 a 6.8% decrease. In 1983 we matched and received \$<sup>67</sup>~~76~~,950.00 a 9.4% decrease.

This is a steady decrease in a time of rising costs, rising demands and was not due to any unworthiness on our part or failure to perform satisfactorily.

Definition of agriculture Fairs is overdue. We have been lead to believe the administration and legislature would welcome a definition. Adoption of this definition would clarify the funding procedure, protect existing long time agriculture Fairs, allow for establishment of new, real agriculture Fairs, and allow the Fairs to grow and improve their shows for producer and consumers alike.

We support <sup>SB 378</sup> ~~HB 538~~ with the changes I noted earlier and ask your favorable consideration. Thank you for your time and attention.

*Janet R. Smith*

# TANANA VALLEY STATE FAIR ASSOCIATION

P.O. Box 188 • Fairbanks, Alaska 99707  
(907) 452-3750



January 6, 1984

Senator Bettye Fahrenkamp  
State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The following definition of a Agricultural Fair was proposed and adopted by the Tanana Valley Fair, and officially adopted by the steering committee of Associated Alaskan Fairs at their meeting January 4, 1984:

"An Agricultural Fair shall mean a community, regional or state fair which includes in its activities exhibits of the agriculture, horticulture, native plants, livestock and related domestic arts produced in the community, region or state.

For funding as an Agricultural Fair, the Fair must include, but not be limited to, competitive exhibits in each of the following categories:

- a. exhibits from 4-H clubs or FFA chapters
- b. agricultural, horticultural, native plant and livestock exhibits
- c. exhibits of the historical and/or present contributions and or future potential of any renewable resource (timber, fisheries, livestock, field and horticultural crops, etc.) which is cultivated in the community, region or state
- d. culinary exhibits such as canned vegetables, jams, breads, cakes e.c.
- e. household arts exhibits such as sewing, knitting and quilting
- f. general interest exhibits such as hobbies, arts, crafts, photography and school education"

It is our suggestion that the Alaska State statute .03.20.080 be amended to substitute the above definition.

The definition accepted by our fair groups was researched thoroughly by reviewing statutes from the other forty-nine states. We believe this definition is true to the spirit of an agricultural fair and will serve as an adequate funding guideline. If you have any questions, please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Baird", written in a cursive style.

Janet Baird  
Manager

JB/bw

HOUSE RESOURCES  
STANDING COMMITTEE  
February 14, 1984  
3:35 p.m.

Members present:           Rep. Ringstad, Co-Chairman  
                              Rep. Shultz, Co-Chairman  
                              Rep. Cowdery  
                              Rep. Liska  
                              Rep. Uehling  
                              Rep. Vaska  
                              Rep. Bussell  
                              Rep. Larson

Members absent:           Rep. Goll

COMMITTEE CALENDAR

HB 538                        "An Act relating to agricultural and industrial  
                              fairs"

WITNESS REGISTER

Rep. Dick Shultz  
Pouch V  
Juneau, Alaska 99811  
465-4951  
Position statement:        Prime sponsor; favors passage.

Bill Heim, Director  
Division of Agriculture, DNR  
State of Alaska  
Pouch A  
Wasilla, Alaska 99687  
376-3276  
Position statement:        Department supports passage of HB 538

Janet Baird, Manager  
Tanana Valley Fair Association  
P.O. Box 188  
Fairbanks, Alaska 99707  
452-3750  
Position statement:        Association supports passage of HB 538

Bill Haring  
Aide to Rep. Dick Shultz  
Pouch V  
Juneau, Alaska 99811  
465-4951  
Position statement:        Supports passage of HB 538

PREVIOUS ACTION

Please refer to bill history

ACTION NARRATIVE

Tape No. 16  
Recording  
Number 0003

Co-Chairman Ringstad called to order the meeting of the House Resources Committee, and brought HB 538 before the members.

Number 0013

Rep. Shultz made introductory remarks regarding HB 538.

Number 032

Bill Heim, Director of the Division of Agriculture gave a statement in favor of the bill, saying the law needs a better definition of what constitutes a fair when it disburses matching money to fund them.

Number 0044

Rep. Larson asked a series of questions regarding the number of fairs now operating in the state, and what would qualify one to be a fair. Heim responded that most would qualify under this bill, although some would have to add 4-H or FFA competition.

Number 0074

Rep. Liska asked how many state fairs we have. Rep. Ringstad replied that the state fair alternates between Palmer and Tanana Valley.

Number 0095

Janet Baird, Manager of Tanana Valley State Fair Association, gave a statement in favor of the bill, saying that a good fair will increase ag production by 10% through competition and education; that the bill's definition is representative of definitions used by other states, and asked for several wording changes to the bill.

Number 0240

Bill Haring spoke as Past President of the Deltana Fair Association, saying he supports the changes proposed by Ms. Baird, and suggested the state should do something about the requirement to fund only one fair per election district.

Number 0262

Rep. Vaska asked, in reference to Ms. Baird's proposal to change "or" to "and", if that wouldn't limit participation. Haring replied that it isn't a fair if it doesn't have livestock.

Number 0292

Rep. Uehling asked if the Fur Rendezvous would be considered an industrial fair. Mr. Heim replied

that it is, and is state-funded at \$75,000. Rep. Uehling then asked if the "or" to "and" change was made if they would have to add livestock in order to qualify. Mr. Heim said he didn't know if they had livestock.

Number 0310

Rep. Larson asked if the "or" to "and" change might disqualify some already qualified fairs. A general discussion of the point ensued.

Number 0356

Rep. Shultz suggested that, without objection, the committee go ahead and request a CS with the changes mentioned. Reps. Vaska and Uehling objected.

Number 0366

Rep. Vaska stated that he would get opposition to the bill from the Yukon-Kuskokwim State Fair.

Number 0379

Co-Chairman Ringstad adjourned the meeting at 4:00 pm.

*Edie*

# TANANA VALLEY STATE FAIR ASSOCIATION

P.O. Box 188 • Fairbanks, Alaska 99707  
(907) 452-3750



February 7, 1984

Dick Shultz  
Alaska State Legislature  
House of Representatives  
P.O. Box 355  
Delta Junction, Alaska 99737

Dear Dick:

Thank you for your letter dated January 25, 1984 and the copy of HB 538, "An Act relating to agricultural and industrial fairs." I also have a copy of SB 378 on the same matter.

Thank you for the introduction of your bill. The definition of agricultural fairs, as proposed by the Associated Alaskan Fairs, Inc., should help clarify eligibility of state and regional fairs under Alaska Statute 03.20.030.

In reviewing HB 538 there appears to be a few changes which would bring the bill into closer conformity with the proposed definition:

1) Section 1. (d)(2) Change the word "or" to "and" to make this phrase read: relating to agriculture, industry, horticulture, native plants and livestock. The intention of this phrase is to have competitive exhibits in all of the subjects enumerated.

2) The phrase "culinary exhibits such as canned vegetables, jam, breads, cakes, etc." was included in the proposed definition but has been deleted in the bill.

3) Section 1. (d)(4) Add the phrase "such as sewing, knitting and quilting" after household arts.

The above suggested changes to HB 538 bring it closer to the proposed intent and language. Your consideration of these changes would be appreciated.

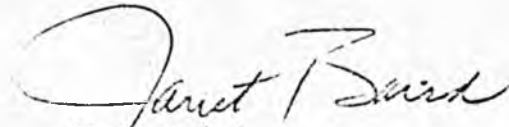
One critical factor in the definition of an agricultural fair is that competitive exhibits should be offered in all six of the categories listed. The definition proposed by Associated Alaska Fairs, Inc. and language of HB 538 both preserve that requirement. The Tanana Valley Fair

February 7, 1984  
Dick Shultz  
Page 2

would oppose any change which would allow eligibility for funding on a portion, rather than all, of the items.

Thank you for your help and support of Alaska's Agricultural Fairs.

Sincerely,

A handwritten signature in cursive script that reads "Janet Baird". The signature is written in dark ink and is positioned above the typed name and title.

Janet Baird  
Manager

cc: Interior delegation

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

February 22, 1984  
3:08 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chair  
Senator Vic Fischer  
Senator Mulcahy  
Senator Sturgulewski

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#### CALENDAR

SB 335, An Act amending the Alaska Grain Reserve Program; and providing for an effective date.

SB 337, An Act relating to the Delta Junction bison range; and providing for an effective date.

SB 338, An Act making special appropriations for the development of the Delta Junction bison range and construction of a bison herd drift barrier; and providing for an effective date.

SB 371, An Act relating to mining; and providing for an effective date.

SE 378, An Act relating to agricultural and industrial fairs.

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#### SB 335

Dean Brown, Deputy Director, Division of Agriculture, Department of Natural Resources, testified in support of the bill and discussed DNR's proposed amendments that would convert the Alaska grain reserve loan fund to a revolving fund.

Senator Mulcahy moved to amend SB 335 to include DNR's amendments. There was no objection.

SB 337

SB 338

Dave Johnson, Area Game Biologist, Alaska Department of Fish and Game, testified in support of the bill that would continue a program of providing forage for bison, expand tourist facilities, create a Bison Range Advisory Committee, and construct a drift barrier to help resolve conflicts between farmers and bison.

Senator Bettye Fahrenkamp discussed a proposed amendment by Senator Pappy Moss that would change the location of the drift barrier.

Senator Sturgulewski moved to include Senator Moss's amendment in SB 337. There was no objection.

Senator Bettye Fahrenkamp recommended that the committee staff prepare an amendment clarifying the increased fee for bison hunting permits.

SB 378

Dean Brown, Deputy Director, Division of Agriculture, Department of Natural Resources, testified in support of the bill stating it would give the Department needed guidelines for defining agricultural and industrial fairs.

Senator Mulcahy moved to adopt SB 378 and move it from committee with individual recommendations. There was no objection.

SB 371

Pedro Denton, Director, Division of Mining, Department of Natural Resources, testified in support of the Committee Substitute and recommended an amendment that would establish the rental fee for the first two years of an offshore prospecting permit at \$6/acre.

Senator Ziegler moved adoption of the amendment. There was no objection.

Senator Mulcahy moved the bill from committee with individual recommendations. There was no objection.

The meeting was adjourned at 3:32 pm.

**Chapter 20. Agricultural and Industrial Fairs.**

<p><b>Section</b>                  10. State aid                  20. Amount and conditions of aid                  30. Application for and granting of operation and maintenance aid                  35. Application for and granting of capital improvement aid                  40. Display of exhibits outside state</p>	<p><b>Section</b>                  50. More than one association and fair permitted                  60. Expenditure of aid for nonperishable exhibits                  70. Funds to be returned if unexpended or if no fair held                  80. Definitions</p>
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Collateral references. — 3 Am. Jur. 2d, Agriculture, §§ 54-58.  
 3 C.J.S., Agriculture, §§ 129-136.  
 Responsibility of agricultural society for tort, 52 ALR 1400.  
 Power of county to aid or subsidize privately conducted county fair, 116 ALR 889.

Liability for injury inflicted by horse, dog, or other domestic animal exhibited at show, 80 ALR2d 886.  
 Validity and construction of contract exempting agricultural fair with similar bailee from liability for articles delivered for exhibition, 69 ALR3d 1025.

**Sec. 03.20.010. State aid.** The state may grant aid to agricultural and industrial fair associations, incorporated under the laws of the state, to assist in the payment of (1) costs of operation and maintenance and (2) project costs for capital improvements of annual agricultural and industrial fairs. (§ 33-2-1 ACLA 1949; am § 1 ch 154 SLA 1972; am § 20 ch 168 SLA 1978)

**Sec. 03.20.020. Amount and conditions of aid.** (a) Fairs may be held each year in each of the house election districts, and state aid for the operation and maintenance of the fairs may not exceed a basic grant of \$10,000; however, fairs in existence five years or longer may receive an increment grant not to exceed \$2,500 per year of existence to a maximum of \$75,000. The people of each district sponsoring a fair are not eligible for state aid unless they subscribe to spend from their own funds for that purpose an amount equal to the amount of the state aid and have or organize an agricultural and industrial fair association for the operation and maintenance of the fairs. Each fair receiving state aid is open to entries by the people of the whole state and special provision shall be made for exhibits from boys' and girls' clubs.

(b) An agricultural and industrial fair association qualifying for and applying for operation and maintenance grants may also apply for capital improvement grants.

(c) For the purpose of matching state fair aid allocations, a fair whose local resources are not sufficient to match dollar for dollar may, in preparing its annual report, place a reasonable itemized monetary value on donated labor, materials, and equipment used in the construction, repairing and maintenance of fairgrounds buildings and

facilities in place of dollar matching up to 50 percent of its annual requests. The commissioner shall determine when local resources are insufficient to allow the community to match the amount of state aid requested under (a) of this section, and shall approve the reasonableness of the value assigned the donations by the fair.

(d) Premiums and prizes that qualify for listing for allocation purposes under this section shall be those paid for exhibits and educational contests, displays, and demonstrations of an educational nature. This does not include prizes or premiums for promotion or entertainment activities such as queen contests, parades, dances, rodeos, or races. A listing of fund allocations under this section containing the names of all premium and prize winners, including the amount and value of all awards, shall be maintained by the fair association. (§ 33-2-2 ACLA 1949; am § 1 ch 129 SLA 1953; am § 1 ch 97 SLA 1967; am § 2 ch 154 SLA 1972; am §§ 1, 2 ch 71 SLA 1979)

Effect of amendments. — The 1979 amendment substituted the language beginning "a basic grant of \$10,000" for "the sum of \$25,000 each for fairs having an annual event the 10 previous years and may not exceed \$8,000 for other fairs held annually" at the end of the first sentence of subsection (a) and added subsections (c) and (d).

**Sec. 03.20.030. Application for and granting of operation and maintenance aid.** (a) Each agricultural and industrial fair association desiring to apply for an operation and maintenance grant shall apply to the commissioner before August 1 of the year preceding the fiscal year for which the grant is sought. It shall submit with the application a planned program of operation and maintenance of the proposed fair, the rules and regulations governing the fair, and a certificate signed by the president and secretary of the association, certifying that the association will spend for the proposed fair, a sum of money from their own funds equal in amount to the benefits requested under this chapter. When satisfied that the association is entitled to receive state aid under the provisions of this chapter, the commissioner shall have a warrant drawn in favor of the association, in the sum to which it is entitled. The commissioner shall pay annually the sum to be paid under the provisions of this chapter.

(b) The commissioner shall require each association receiving state operation and maintenance aid to furnish receipts for money paid to them. The commissioner may prescribe the form of the receipt. Each association shall furnish a statement executed and acknowledged by the president and secretary, covering the disbursements by the association of all operation and maintenance funds, for fairs held under this chapter. The statement shall definitely set forth that wherever any state aid money has been disbursed that a like amount of fair association fund money has been expended and that in no instance has the expenditure of state money exceeded the expenditure of fair association

money. The association shall make a full report of receipts and expenditures including the sums expended for prizes and awards to the commissioner and this report shall be transmitted to the next legislature.

(c) A sum equal to at least 25 percent of the state operation and maintenance aid received under this chapter shall be used for premiums or transportation cost of exhibits. (§ 33-2-3 ACLA 1949; am §§ 2, 3 ch 97 SLA 1967; am § 3 ch 154 SLA 1972)

Revisor's notes. — Under the authority of the State Organization Act of 1959, the governor assigned "aid to Alaska industrial and agricultural fairs" to the Department of Natural Resources in a proclamation dated August 19, 1959.

**Sec. 03.20.035. Application for and granting of capital improvement aid.** (a) Each agricultural and industrial fair association desiring to apply for a capital improvement grant shall apply to the commissioner before August 1 of the year preceding the fiscal year for which the grant is sought. It shall submit with the application a proposed long-term capital improvement plan of the fair covering five years from the time the application is submitted, which shall be certified by the president and secretary of the association as having been reviewed and approved by the governing body of the association. When satisfied that the association is entitled to receive state aid under the provisions of this section, the commissioner shall have a warrant drawn in favor of the association, in the sum to which it is entitled.

(b) Each association receiving state capital improvement aid shall furnish receipts to the commissioner for money paid to them. The commissioner shall prescribe the form of the receipt. The association shall make a full report of its receipts and expenditures made for capital improvements and this report shall be transmitted to the next legislature following the receipts and expenditures. (§ 4 ch 154 SLA 1972)

**Sec. 03.20.040. Display of exhibits outside state.** The commissioner may collect and ship, for display outside of the state, exhibits of Alaska produce, mining and manufacturing, and other exhibits, including the Native arts. The commissioner may expend not more than \$2,000 a year for that purpose. The commissioner shall account for and report the funds disbursed under this section. (§ 33-2-4 ACLA 1949)

**Sec. 03.20.050. More than one association and fair permitted.** Nothing in this chapter prohibits the formation of more than one agricultural and industrial fair association in each house election district or the holding of an agricultural and industrial fair in several places in each district. When more than one association is formed in a house election district or when a fair is held in more than one place in the district, the minimum operational aid is \$250. When more than one

association applies for the benefits of this chapter, the commissioner shall divide the money allotted to the district among the applicants in proportion to the amount justified at the time of application. (§ 33-2-5 ACLA 1949; am § 4 ch 97 SLA 1967; am § 5 ch 154 SLA 1972)

**Sec. 03.20.060. Expenditure of aid for nonperishable exhibits.** The commissioner may require an association to expend not more than 10 percent of the state operation and maintenance aid granted, for the purpose of buying nonperishable exhibits. Those exhibits shall be held by the association subject to the order of the commissioner. (§ 33-2-6 ACLA 1949; am § 6 ch 154 SLA 1972)

**Sec. 03.20.070. Funds to be returned if unexpended or if no fair held.** (a) If an association has received state operation and maintenance funds under this chapter and fails to hold a fair in accordance with its program, or does not disburse all of the state funds paid to it for that purpose, the association shall return those funds, or the unexpended portions, to the department within 60 days after the date set for the fair. If an association fails to comply with this section the attorney general shall institute proceedings to recover the funds.

(b) If an association has received state capital improvement funds under this chapter and fails to expend them within five years for capital improvements designated in its long-term capital improvement plan in effect at the time of the grant, the commissioner may, after investigation, require that the unexpended funds be returned to the department. (§ 33-2-7 ACLA 1949; am § 7 ch 154 SLA 1972)

**Sec. 03.20.080. Definitions.** For purposes of this chapter,  
(1) "agricultural and industrial fair" means a fair, the major focus of which is displays, exhibitions, demonstrations, contests or promotions of agricultural or industrial concern to the region in which the fair is located, or any fair which, before July 1, 1980, has received a grant under this chapter;  
(2) "project costs for capital improvements" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out the project. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial advisors, and paying agents for the bonds issued as the issuer considers necessary. (§ 21 ch 168 SLA 1978; am § 3 ch 71 SLA 1979)

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SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *SB 379*

BILL NAME: *Establishing a fisheries business tax credit*

SPONSOR(S): *Mulcahy*

DATE INTRODUCED: *1-26-84*

REFERRALS: *Resources  
Finance*

RELATED BILLS PENDING:

*HB 519 - ZHAROFF*

*1-16-84*

*Resources  
Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate

### Committee on Resources

#### MINUTES

April 9, 1984  
3:05 pm

Beltz Room  
Room 211, Capitol

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#### MEMBERS PRESENT

Senator Ziegler, Vice Chairman  
Senator Eliason  
Senator Paul Fischer  
Senator Vic Fischer  
Senator Mulcahy  
Senator Sturgulewski

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#### CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

SB 399, An Act relating to trespassing and posting of land.

SCR 44, Relating to management of state construction materials.

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#### SB 379

Senator Mulcahy stated that this bill was heard in Fisheries Subcommittee and reported back to full Committee with all members recommending do pass. He explained that SB 379 was suggested by the Governor's Task Force on Fisheries and has the support of fishermen and processors. It would allow a tax credit of up to 50% for shore based processors and is intended to help the development of a bottomfish industry.

Senator Sturgulewski asked for clarification that local communities would still receive their full share of fisheries taxes.

Norman Staton, Special Assistant to the Commissioner of the Department of Revenue, explained that the tax credit would apply only to the down payment portion of capital expenditures.

SB 391

Senator Mulcahy reviewed the major provisions of the bill and reported that the Subcommittee on Fisheries recommended do pass.

Martin Richard, Division of Public Services, Department of Revenue, answered questions on Section 1 of the bill, which would allow residents of group homes to qualify for 25¢ licenses, and Section 3, which makes falsification of information on license applications a crime of perjury.

SB 399

Sandra Schubert, Aide to Senator Fahrenkamp explained that the Committee Substitute would require that property owners who choose to post their land place notices at each roadway or apparent way of access onto the property, and that the notices contain the name and address of the property owner.

Senator Ziegler moved CSSB 399 from Committee with individual recommendations. There was no objection.

SCR 44

Senator Vic Fischer explained that SCR 44 requests that the Department of Natural Resources inventory and set aside reserves of sand and gravel on a statewide basis, and establish a program of managing sand and gravel resources.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, testified that the Department supports the resolution.

Ross G. Schaff, State Geologist, spoke in support of the resolution as it provides a focus to the State Geological Survey to initiate a statewide inventory of sand and gravel resources.

Randall G. Updike, State Geological Survey, reviewed the timeline and methodology for implementing the proposed program.

Senator Vic Fischer moved SCR 45 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:50 pm.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate Committee on Resources

### MINUTES

April 11, 1984  
3:08 pm

Beltz Room  
Room 211, Capitol

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### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Ziegler, Vice Chairman  
Senator Eliason  
Senator Vic Fischer  
Senator Mulcahy  
Senator Sturgulewski  
Senator Gilman

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### CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

CSHB 589 (Finance)am, An Act relating to the Alaska Power Authority authorizing the construction of the Watana and Bradley Lake hydroelectric projects.

SCS CSHB 684 (Resources), An Act making special appropriations to the Alaska Power Authority.

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SB 379  
SB 391

Senator Mulcahy moved SB 379 and SB 391 from Committee with individual recommendations. There was no objection.

CSHB 589 (Fin)am

Larry Crawford, Executive Director, Alaska Power Authority, spoke in support of the bill, assuring the committee that the APA would not spend money for detailed design work on either Watana or Bradley until power sales agreements have been signed, and a plan of finance has been approved.

Pete McDowell, Director, Office of Management and Budget, testified that the Governor supports the bill and agreed to a proposed letter of intent that would assure that OMB's existing project review process will continue.

Dave Hutchens, Alaska Rural Electric Cooperative Association, spoke in support of the bill and submitted an amendment that would authorize Bradley and Watana at a specified funding level and keep interest earned from the appropriations in the Power Development Fund.

Martha Fox, Assistant Attorney General, testified that the Attorney General's office would defend the dedication of interest to the Power Development Fund.

Representative Ron Wendte urged that the development of these projects be done with full knowledge of the costs and impacts to those people affected. With the assurances given by the Administration that the existing process of review would continue, he is in support of the bill.

Jay Nelson, Alaska Environmental Lobby, did not support HB 589, testifying that the bill provides no assurance that the four dam pool problems will not be repeated on Bradley and Susitna. He also objected to the incorrect figures for projected costs of the projects.

CSHB 68' (Fin)am

Larry Crawford, Alaska Power Authority, answered questions on sections of the bill dealing with rate stabilization, system increment, and funds for design work on the Bradley Lake and Susitna projects. He agreed that a letter of intent outlining when funds would be spent should accompany this bill.

Dave Hutchens, Alaska Rural Electric Cooperative Association, proposed amendments to the bill that would clarify when appropriations to the Susitna project would be made and establish a deposit schedule for the appropriations.

The committee adjourned at 4:20 pm.

# STATE OF ALASKA

SB 379  
BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**  
OFFICE OF COMMERCIAL FISHERIES DEVELOPMENT

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2518

February 28, 1984

Honorable Bob Mulcahy  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Comments Requested on SB 379  
(Fisheries Business Tax Credit)

Tax credits for the fishing industry have been discussed recently at several meetings. Tom Panamaroff has participated in and is familiar with the issues.

My hope is to encourage and help Alaska processors to gear up for groundfish by allowing a temporary tax credit. It seems that if the State is to make such an investment, the net result sought should be well defined and achievable. Our major concern with SB 379 and HB 518 is that nearly all capital expenditures that a processor might make would qualify for credit. If the equipment is to be used "in the processing of a developing commercial fish species," the Department of Revenue is likely to interpret that to mean anything that contributes to some level of production. For instance, an unloading pump intended for salmon but used once or twice for a few cod is likely to qualify.

The fisheries tax credit has implications related to federal and State income tax liability. Processors are probably not paying much income tax these days, but the following was developed by the Department of Revenue:

"Fish processors who purchase new equipment will have a federal and state investment tax credit for income tax purposes. The amount for the credit will be 10% of the cost for federal tax purposes and 1.8% of the cost for Alaska tax purposes. Any unused credits may be carried back three years and forward seven years.

Any credit given for Fish Tax purposes would reduce the processor's Fish Tax deduction for federal tax purposes and therefore increase the federal tax liability. Assuming the processor is paying corporate tax at the 46 percent rate, a fish tax credit of \$100,000 would increase a processor's federal tax liability by \$46,000. The processor's net savings from a Fish Tax credit of \$100,000 would be \$54,000."

Should credits be carried backward or forward? If a firm makes a large qualifying purchase that exceeds its current tax liability, can the excess credit be carried forward into succeeding years?

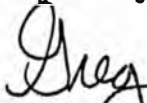
Would the credit program continue indefinitely or for some specified period of time? My feeling is that some Sunset review should be incorporated to insure that the program continues to meet real needs.

If the taxpaying company purchased equipment for its own use:

- \* Would the company be able to claim credit for the full purchase price or if the equipment was financed, for only the amount actually paid?
- \* Would the State be able to recoup credits taken if the equipment was subsequently sold? If so, what conditions should apply?
- \* Would the company be able to take the credit for equipment intended for use outside of Alaska?

These comments probably are not comprehensive, but they do represent the kind of concerns that have been recently voiced. If I can be of any help, please advise.

Very truly yours,

  
Greg Baker  
Director

GB/shB/19  
22884a

# ALASKA DEVELOPING COMMERCIAL FISHERIES

Effective January 1, 1983 - December 31, 1983

Developing commercial fisheries are taxed at a lower rate than established commercial fisheries. A developing commercial fishery is one that has been so designated by the Alaska Department of Fish and Game (AS 16.05.050(12)). Below is a list of fish and shellfish species considered to be developing.

**NOTE:** Please make sure that any species you list on the Developing Schedules A-E are included in the list below. Species not listed below are considered to be established commercial fisheries and must be reported on the Established Schedules A-E.

If you claim any species on the Developing Schedules A-E which are not included in the list below, your return will be adjusted to reflect the higher tax for established fisheries.

## BOTTOMFISH

- Alaska Plaice
- Cod - Lingcod
  - Longfin Cod
  - Pacific Cod
  - Pacific Tomcod
  - Sablefish (Blackcod)
- Flounder
- Flounder, Starry
- Greenling (General)
  - Rock Greenling
  - Whitespotted Greenling
- Groundfish (General)
- Pacific Lamprey
- Pacific Ocean Perch
- Pacific Saury
- Rockfish & Red Snapper
- Sculpin - Bullhead
  - Fourhorn
- Sole - Butter
  - Dover
  - English
  - Flathead
  - Petrale
  - Rex
  - Rock
  - Sand
  - Yellowfin
- Shark (General) -
  - Salmon Shark
- Skate (General)
- Spiny Dogfish
- Turbot (Arrowtooth Flounder)
  - Turbot, Greenland
- Whiting (Pollock)

## OTHER FISH AND SHELLFISH

- Capelin
- Clams
- Coral
- Crab - Box Crab
  - Horse (hair) Crab
  - Brown or Golden King (Lithodes Aequispina)
  - Korean Hair Crab (Erimacrus isenbeckis)
- Dolly Varden
- Freshwater Finfish - All species
- Herring - Food and Bait
  - Chignik, South Peninsula-Aleutian Islands and North Peninsula areas, and Gulf of Alaska waters west of 156° 20' 13" W. long. and Bering Sea waters south of Cape Menshikof (57° 31' 20" N. lat.). (This includes waters of the south side of the Alaska Peninsula west of Killokak Rocks, waters of the Aleutian Islands and the waters of the north side of the Alaska Peninsula to Cape Menshikof.)
- Herring - Sac Roe, Bering Sea area
  - (This is defined as the Bristol Bay, Security Cove-Etolin Strait and Bering Sea-Kotzebue areas. This means all waters of the Bering Sea north of the latitude of Cape Menshikof (57° 31' 20" N. lat.) to the International Date Line. Included within these areas are waters of the Bristol Bay, Security Cove, Goodnews Bay, Cape Romanzof, Norton Sound and Kotzebue Sound.)
- Kelp
- Lamprey
- Octopi
- Sandlance

## Scallops

- Sea Cucumbers
- Sea Urchins
- Shrimp - Trawl gear only, Bering Sea area
  - (This is defined as the North Peninsula, Bristol Bay, Security Cove-Etolin Strait and Bering Sea-Kotzebue areas. This means all waters of the Bering Sea north of 54° 36' N. lat. from Cape Sarichef to the International Date Line. Included within these areas are waters along the western side of the Alaska Peninsula, Bristol Bay, Security Cove, Goodnews Bay, Cape Romanzof, Norton Sound and Kotzebue Sound.)

- Shrimp - Otter trawl gear only, Southeastern Alaska
  - (This includes Southeastern Alaska waters north of Dixon Entrance and south of Cape Spencer.)

- Shrimp - Pot gear only in all waters of Alaska except Cook Inlet area.
  - (The Cook Inlet shrimp area includes waters bound on the south by the latitude of Cape Douglas (58° 52' N. lat.) and on the east by a line from 58° 52' N. lat., 151° 53' W. long. to Cape Elizabeth to Pt. Adams (land points on the southwest tip of the Kenai Peninsula). Thus this area covers only Cook Inlet proper, not Resurrection Bay or portions of Blyng Sound. It does include Kamishak and Kachemak Bays.)

- Smelt
- Snails
- Squid

Fisheries by-products originating from developing commercial fish species are also considered to be developing. For example, herring roe originating from the Aleutian and Bering Sea harvest areas qualifies as a developing fishery.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
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## Senate Committee on Resources

TO: Senator Mulcahy, Chairman  
Resources Subcommittee on Fisheries

FROM: Senator Fahrenkamp, Chairman *[Signature]*  
Senate Resources Committee

RE: SB 379; SB 391

---

The following bills have been referred to the Resources Committee. I am assigning them to the Subcommittee on Fisheries for consideration by the Subcommittee.

SB 379 - An Act establishing a fisheries business tax credit.

SB 391 - An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

cc: Senate Resources Committee members

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

BILL SHEFFIELD, GOVERNOR

ELEVENTH FLOOR  
STATE OFFICE BUILDING  
POUCH SA  
JUNEAU, ALASKA 99811

February 1, 1984

The Honorable Fred Zharoff  
Representative  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Zharoff:

In reviewing HB 518, the Department of Revenue has some concerns about its general scope. Below are nine questions that the Department believes need to be addressed to clarify the bill's intent.

1. Is it the intent of this bill that all new equipment purchased by shore-based fisheries businesses qualify for the tax credit?
2. Will capital improvements also qualify for the credit?
3. Are carrybacks and carryforwards of the credits to be allowed?
4. Will there be a limitation on the number of years that fisheries businesses will be eligible for the credits?
5. When would the applications for the credits be filed?
6. On what basis should the department deny applications?
7. Will the definition of a shore-based fisheries business be the same statutory definition as found in AS 43.75.140(6)?
8. If the answer to #7 above is yes, would a floating fisheries business claiming shore-based tax status qualify for the credit? A fisheries business whose floating facility is permanently attached to the land or remains anchored in one location for the entire calendar year is entitled to claim the shore-based tax status.

The Honorable Fred Zharoff  
February 1, 1984  
Page 2

9. What would constitute "improvement of quality control operations"?

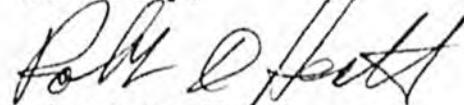
I would like to take this opportunity to make a few comments about the tax credit in general. First, if the intent of the tax credit is to provide assistance to Alaska fisheries businesses that are currently having financial difficulties, it is probable that those businesses will not be able to secure the financing necessary to purchase new equipment.

Additionally, a study of the major Alaska processors indicates that at least 50% of the processors in Alaska are owned by foreign corporations and at least 8% of the processors are owned by out-of-state corporations. Therefore, there would be a substantial tax savings to foreign-owned and out-of-state businesses as a result of this bill.

Finally, as you know, the Fisheries Business Tax is deductible for federal net income tax purposes, and any decrease in this tax as a result of a credit increases the processors' federal tax liability. For every dollar the state loses through the tax credit, the federal government gets 46¢ and the taxpayer only benefits to the extent of the remaining 54¢.

I hope this information has been of help. Please call with any questions.

Sincerely,



Robert D. Heath  
Commissioner of Revenue

RDH/MO/gb

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: SB 379  
 Title: An Act establishing a fisheries business tax credit.  
 Sponsor: Mulcahy  
 Requestor: Senate Resources Comm.  
 Date of Request: January 27, 1984

FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Collection and Management  
 BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	2.0	-	-	-	-
300 CONTRACTUAL	-	1.0	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	3.0	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	(350.0)	(350.0)	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	3.0	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Robert W. Elliott  
 Division: Research Section

Phone: 465-2173  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Elliott  
 Agency: Revenue

Date: 2/2/84

Distribution (by Agency preparing fiscal note):

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

Analysis for SB 379

Travel \$2.0 - passage of SB 379 will require the Audit Division to draft regulations and conduct public hearings throughout the state. Airfare and per diem costs are estimated at \$2,000 for travel to Ketchikan, Anchorage and Kodiak by one Audit Division employee.

Contractual services \$1.0 - conducting public hearings requires the presence of a court reporter and advertising in statewide newspapers.

The above estimates were based on the average collections for developing commercial fish species (AS 43.75.015(b)) for the past two years, and assume the legislation would become effective in FY 85. The estimates reflect the maximum loss the state would experience if all eligible persons applied and were granted a 50 percent tax credit. It should be noted that there exists the possibility in certain cases whereby, if a 50 percent tax credit is granted and the remaining 50 percent is refunded to local governments per AS 43.75.130, the state could eventually not receive any revenues from those fisheries business taxes.

Estimates are duplicated for FY 86 and not shown beyond since price/catch projections are unknown.

(4) "Person" includes an individual, firm, partnership, joint adventure, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit. (§ 2 ch 43 SLA 1949; am § 1 ch 172 SLA 1957)

**Opinions of attorney general.** — Although the Pribilof Islands constitute a special reservation, within the meaning of the Buck Act, 4 USC 105-110, the operations of businesses, including performing contractors' work for the federal government, are not exempt from state taxation. 1959 Op. Att'y Gen., No. 22.

Mere contracts between private persons or corporations and the United States do not necessarily render the former essential governmental agencies and confer upon them freedom from state taxation. 1959 Op. Att'y Gen., No. 22.

The principle of immunity from state and local taxation is generally based upon the direct ownership or use and control of the property by the United States, and does not extend to the business, property, or income of contractors who are doing work for the federal government for the purpose of gain. 1959 Op. Att'y Gen., No. 22.

Persons receiving in excess of \$1500 gross per year from the supplying of part of their home to others and who claim business deductions on their Alaska income tax return for that same part of their home are required to obtain an Alaska business license. 1960 Op. Att'y Gen., No. 20.

When an individual claims that part of his property is business property for income tax purposes, the same part of his property does not come within the meaning of the words "personal home" in §§ 1 and 15 of the business license regulations. 1960 Op. Att'y Gen., No. 20.

**NOTES TO DECISIONS**

**Intent to tax all business proportionately.** — It is apparent that the legislature intended to discard license taxes on specifically enumerated businesses and to tax all businesses proportionately. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Newspapers are within purview of chapter. — The inclusion of newspapers, along with other businesses, is within the purview of this chapter. Territory of Alaska v. Journal Printing Co., 15 Alaska

An individual may not claim a reduction of state income tax on the grounds that part of his home is business property and then escape the state business license tax on the basis that the same part of his home is not a business property but his personal home. 1960 Op. Att'y Gen., No. 20.

Rents received by religious corporations are not exempted from the Alaska business license tax. 1960 Op. Att'y Gen., No. 25.

Where most of the business activities of a company took place in Missouri, it being very difficult to directly allocate that portion of the company's profits or income which was derived from its Alaska operations, the company carried on enough activities in Alaska to become subject to state taxation and these activities could be taxed on an indirect allocation formula. 1959 Op. Att'y Gen., No. 22.

The definition of "gross receipts" in this section indicates a clear legislative intent that, for the purposes of the act, gross receipts should include all of the taxpayer's receipts within the state, whether in the form of money or other valuable considerations. 1961 Op. Att'y Gen., No. 8.

Oil companies may not deduct from their gross receipts federal or Alaska motor fuel excise taxes paid or collected on oil products sold for purposes of calculating taxable gross receipts under the Alaska Business License Act. 1961 Op. Att'y Gen., No. 8.

Newspapers and the business of newspaper publishing are not made exempt from the ordinary forms of taxation for the support of local government by the provisions of the 1st and 14th amendments to the United States Constitution. Territory of Alaska v. Journal Printing Co., 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Definitions found in AS 21 are not controlling as to paragraph (1) of this section, because of the different purposes of each. Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

(File No. 5128), 627 P.2d 205 (1981).

The purpose of excluding "insurance businesses" from the coverage of AS 43.70.030(a) by virtue of the definition in paragraph (1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

The term "insurance businesses" does not include adjusters. Northern

Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

Applied in Ketchikan Spruce Mills v. Dewey, 17 Alaska 336 (1957).

**Sec. 43.70.120. Short title.** This chapter may be cited as the Alaska Business License Act. (§ 1 ch 43 SLA 1949)

**Chapter 75. Fisheries Taxes.**

**Article**

- 1. Taxes and Licenses (§§ 43.75.010 — 43.75.055)
- 2. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction (§§ 43.75.100 — 43.75.120)
- 3. General Provisions (§§ 43.75.130 — 43.75.140)

**Opinions of attorney general.** — A native business enterprise incorporated under the Indian Reorganization Act of 1934, 48 Stat. 987, 25 U.S.C.A. § 476 et seq., whether it be a cooperative store or a cannery, doing business outside of an Indian reservation is subject to the Alaska Business License Act, AS 43.70, and this

chapter, even though those businesses may be operated by Alaska Natives who have incorporated under the Indian Reorganization Act of 1934. Conversely, such native business enterprises doing business within a reservation are not subject to these state taxes. 1978 Op. Att'y Gen., No. 16.

**NOTES TO DECISIONS**

Cited in Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).

**Article 1. Taxes and Licenses.**

- |   |   |
|---|---|
| <p><b>Section</b></p> <ul style="list-style-type: none"> <li>11. Fisheries business license</li> <li>15. Fisheries business tax</li> <li>17. Exclusion from fisheries business tax</li> </ul> | <p><b>Section</b></p> <ul style="list-style-type: none"> <li>20. Application for license</li> <li>30. Filing return and payment of tax</li> <li>55. Security for collection of taxes</li> </ul> |
|---|---|

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No.

1755 (File No. 3365), 585 P.2d 878 (1978). There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

Collateral referer ces. — 35 Am. Jur. 2d, Fish and Game, § 45. 71 Am. Jur. 2d, State and Local Taxation, §§ 392-401. 36A C.J.S., Fish, § 36.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Constitutional exemption from taxation as subject to legislative regulation respecting conditions of its assertion, 4 ALR2d 744.

Payment of taxes to prevent closing of, or interference with, business as involuntary so as to permit recovery, 80 ALR2d 1040.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

What constitutes manufacturing and who is a manufacturer under tax laws, 17 ALR3d 7.

When right to refund of state or local taxes accrues, within statute limiting time for applying for refund, 46 ALR2d 1350.

Validity and construction of state statute making successor corporation liable for taxes of predecessor, 65 ALR3d 1181.

Legislative power to exempt from taxation property, purpose, or uses additional to those specified in constitution, 61 ALR2d 1031.

Sec. 43.75.010. Fisheries business licenses. [Repealed, § 13 ch 79 SLA 1979. For current law, see AS 43.75.011.]

NOTES TO DECISIONS

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No.

1755 (File No. 3365), 585 P.2d 878 (1978). There is no general prohibition against like municipal and state taxes. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

Sec. 43.75.011. Fisheries business license. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020. (§ 3 ch 79 SLA 1979)

Cross references. — For legislative findings and purpose relating to AS 43.75, see §§ 1 and 2, ch. 79, SLA 1979 in the Temporary and Special Acts.

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this

section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based cannery — four and one-half per cent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three per cent;

(3) fisheries resources processed by a floating fisheries business — five per cent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is frozen from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations issued by the department. (§ 3 ch 79 SLA 1979; am §§ 5, 6 ch 117 SLA 1981)

Effect of amendments. — The 1981 amendment, substituted "who processes" for "engaged in a fishery business which includes processing" preceding "a developing commercial fish" in the introductory language of subsection (b), and in subsection (c), added "or a person who purchases a fishery resource that is frozen from a person excluded by AS

43.75.017 from liability for the tax" following "processes the fishery resource" in the first sentence, deleted "not" preceding "deduct" in the second sentence and substituted the present third sentence for "but shall include that value as part of the value of the fishery resources processed."

NOTES TO DECISIONS

A tax on the business of catching and canning salmon is not a property tax. *Pacific Am. Fisheries v. Territory of Alaska*, 2 F.2d 9 (9th Cir. 1924), aff'd, 269 U.S. 269, 46 S. Ct. 110, 70 L. Ed. 270 (1925).

whether the raw fish were purchased or otherwise obtained. *Arctic Maid v. Territory of Alaska*, 277 F.2d 120 (9th Cir. 1960), rev'd on other grounds, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961).

"Canning" is activity of salmon cannery which is taxed. — Under former AS 43.75.010, the salmon cannery activity which was taxed is that of "canning,"

No discrimination in favor of local cannery against freezer ships under prior law. — See *Alaska v. Arctic Maid*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961).

Cold storages and other fish processors. — For cases construing former law requiring licenses for cold storages and other fish processors, see *Territory of Alaska v. Arctic Maid*, 13 Alaska 126, 140 F. Supp. 190 (D. Alaska, 1956), *aff'd*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961); *State v. Wakefield Fisheries, Inc.*, Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 455 P.2d 166 (1972); *State v. Reefer King Co.*, Sup. Ct. Op. No. 1344 (File Nos. 2605, 2606, 2607), 559 P.2d 56 (1976).

For case discussing priority of claims for license taxes under prior law in a bankruptcy proceeding, see *In re King Salmon Fisheries Co.*, 7 Alaska 97 (1923).

Constitutionality of former provisions taxing salmon canneries on basis of number of cases packed. — See *Territory of Alaska v. Pacific Am. Fisheries*, 7 Alaska 160, *aff'd*, 2 F.2d 9 (9th Cir. 1924), *aff'd*, 269 U.S. 269, 46 S. Ct. 110, 70 L. Ed. 270 (1925).

**Sec. 43.75.017. Exclusion from fisheries business tax.** A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is frozen aboard a fishing vessel if

- (1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;
- (2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing and glazing;
- (3) the fishery resource was caught by the vessel; and
- (4) the fishery resource is sold by the person claiming an exclusion from the tax to a fisheries business licensed under this chapter. (§ 7 ch 117 SLA 1981)

**Sec. 43.75.020. Application for license.** (a) Application for a license shall be filed with the department and accompanied by an initial fee of \$25. A separate initial fee is required for each plant specified in the application covered by the license. The application shall contain the name of the applicant, the line of business to be licensed, place of business, and other facts which the department prescribes. The applicant shall state that the applicant agrees to pay the license tax, and that the applicant will make a return and pay the tax at the time provided by law.

(b) Upon receipt of the application in proper form accompanied by the initial fee the department shall issue the license. (§ 2 ch 82 SLA 1949; am § 93 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "as of the date the application is filed or mailed, and the applicant may carry on the business from

the date the application was actually mailed" following "the license" in subsection (b), and, made other, minor changes.

**Sec. 43.75.030. Filing return and payment of tax.** (a) A person subject to the tax shall file a return stating the value of fisheries resources processed during the license year, computed as required by this chapter, and such other information as the department prescribes by regulation. The return shall show the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign is operating the property or busi-

ness, that person shall file the return for the person. A tax due on the basis of such a return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year.

(c) The department may adopt regulations for the granting of a reasonable extension of time for filing and may grant an extension of time for filing.

(d) The tax shall be paid before April 1 after the close of the calendar year.

(e) Every person engaging or attempting to engage in a business for which a license is required under this chapter shall keep records, make statements under oath, file returns, and comply with all regulations which the commissioner of revenue may adopt.

(f) When the department considers it is necessary, it may require a person, by notice served upon the person, to file a return, make such statements under oath, or keep and display to it such records as it considers sufficient to show the tax for which the person is liable. If a person fails to file a return as prescribed by law or by regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from the information which it can obtain. A return made by the department is prima facie good and sufficient for all legal purposes. (§ 3 ch 82 SLA 1949; am §§ 2, 3 ch 146 SLA 1962; am §§ 5, 6 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "fisheries resources" for "raw fisheries products" in the first sentence of subsection (a), deleted "AS 43.75.010 — 43.75.050 of" preceding "this chapter" in the first sentence of sub-

section (a) and in subsection (e), deleted "such" preceding "records," preceding "statements," and preceding "returns" in subsection (e), and substituted "all regulations which" for "such regulations as" in subsection (e).

#### NOTES TO DECISIONS

Applied in *Schlothman v. Territory of Alaska*, 276 F.2d 806 (9th Cir.), cert. denied, 362 U.S. 990, 80 S. Ct. 1079, 4 L. Ed. 2d 1022 (1960).

**Sec. 43.75.050. Violations and penalties.** [Repealed, § 4 ch 94 SLA 1976; § 3 ch 166 SLA 1976; §§ 45, 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290.]

**Sec. 43.75.055. Security for collection of taxes.** Each applicant for a license under this chapter shall, in or with the application, state under oath the amount of each of the products which the applicant expects to produce during the license year. The applicant shall further state the extent of lienable real property owned by the applicant in the

state against which the tax may be collected and other information with respect to description, location and value of the property which the department prescribes. If the lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, with interest if not paid before delinquency. However, if the applicant purchases salmon for export from Alaska in the round, the amount of the bond is \$50,000 unless the applicant is the owner of lienable real property in the state of a value of at least \$50,000, and the bond must be conditioned upon payment to the fisherman of the full purchase price for the salmon and the payment of the tax in full when due. The department may waive the bond requirement if the applicant posts other security in the form of collateral acceptable to the department or prepays the estimated tax. (§ 4 ch 84 SLA 1967; am § 8 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment added the present fourth sentence and added "or prepays the estimated tax" to the end of the present fifth sentence.

Secs. 43.75.060 — 43.75.095. Cold storage and other fish processors [Repealed, § 13 ch 79 SLA 1979.]

Article 2. Taking of Fisheries Products Which Are Sold Outside Taxing Jurisdiction.

Section 100. Tax imposed on taking of fishery resource	Section 110. Duty of taxpayer and payment of tax
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Collateral references. — 35 Am. Jur. 2d, Fish and Game, § 25; 71 Am. Jur. 2d, State and Local Taxation, §§ 392-401. 36A C.J.S., Fish, § 33. State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as interstate commerce as regards local taxation, 10 ALR2d 651. Property destined for removal from state as subject to taxation therein, 11 ALR2d 938.

Sec. 43.75.100. Tax imposed on taking of fishery resource. (a) A person taking, purchasing, or otherwise acquiring a fishery resource covered by this chapter which has not been subject to the tax imposed

in AS 43.75.015 is subject to the tax levied in AS 43.75.015 on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under AS 43.75.015 if the fisheries business that first actually and physically processed the fish had been liable to pay the tax. (§ 1 ch 190 SLA 1959; am § 4 ch 79 SLA 1979; am §§ 8, 9 ch 117 SLA 1981)

Effect of amendments. — The 1979 amendment rewrote this section. The 1981 amendment deleted "sold" following "fishery resource" in the introductory language of subsection (a), deleted "to a fisheries business" in paragraphs (1) and (2) of subsection (a), deleted "or" at the end of paragraph (1) and added "or" at the end of paragraph (2) of subsection (a) and added paragraph (3) of that subsection. The amendment also rewrote subsection (b).

Sec. 43.75.110. Duty of taxpayer and payment of tax. A person subject to taxes under AS 43.75.100 shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by AS 43.75.100, and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return shall contain the license number and shall be signed by the taxpayer or an authorized agent, under penalty of perjury. If a receiver, trustee, or assign operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner of revenue are the same as those prescribed in AS 43.75.011 — 43.75.050. (§ 2 ch 190 SLA 1959; am § 9 ch 79 SLA 1979)

Effect of amendments. — The 1979 amendment substituted "fisheries resources taken, purchased, or otherwise acquired" for "raw fisheries products taken" and "fisheries businesses" for "freezer ships, floating cold storages, or floating canneries" in the first sentence and substituted "AS 43.75.011 — 43.75.050" for "the business license tax law for salmon canneries" at the end of the fifth sentence.

Sec. 43.75.120. Violations and penalties. [Repealed, § 46 ch 113 SLA 1980.]

**Article 3. General Provisions.**

**Section**

130. Refund to local governments

140. Definitions

**Sec. 43.75.130. Refund to local governments.** The commissioner of revenue shall pay

(1) to each municipality unified under AS 29.68.240 — 29.68.440, and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected in the municipality from taxes levied by this chapter;

(2) to each city located within a borough, 25 percent of the amount of tax revenue collected in the city from taxes levied by this chapter; and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of the borough outside cities from taxes levied by this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities located within the borough from taxes levied by this chapter. (§ 6 ch 155 SLA 1962; am § 75 ch 69 SLA 1970; am § 10 ch 218 SLA 1976; am § 11 ch 79 SLA 1979; am § 10 ch 117 SLA 1981)

**Effect of amendments.** — The 1979 amendment rewrote this section. The 1981 amendment substituted "50 percent" for "20 percent" in paragraphs (1) and (3)(A) and substituted "25 percent" for "10 percent" in paragraphs (2) and (3)(B).

**NOTES TO DECISIONS**

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska

**Business License Act.** — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1755 (File No. 3365), 585 P.2d 878 (1978).

**Sec. 43.75.135. Additional refund to boroughs and cities.** [Repealed, § 13 ch 79 SLA 1979.]

**Sec. 43.75.136. Appropriations to Commercial Fishing and Agriculture Bank.** [Repealed, § 20 ch 117 SLA 1981.]

**Sec. 43.75.140. Definitions.** In this chapter

(1) "department" means the Department of Revenue;

(2) "developing commercial fish species" means those species of fish and shellfish annually designated by the commissioner of fish and game under AS 16.05.050(12);

(3) "fisheries business" means a person who engages in processing fisheries resources for sale by freezing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(4) "fishery resource" means fin fish, shellfish and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock;

(5) "floating fisheries business" means a fisheries business which is not a shore-based fisheries business; the term includes, but is not limited to, a shore-based fisheries business as defined in (6)(B) of this section when it is removed from the state;

(6) "shore-based fisheries business" means a fisheries business

(A) operated from a facility which is permanently attached to the land; or

(B) operated from a facility which remains in the same location in the state for the entire tax year;

(7) "taking" means pursuing, fishing, capturing, or harvesting a fisheries resource in any manner,

(8) "value" means the actual price paid for the fisheries resource by the fisheries business, including indirect consideration such as fuel, supplies, or gear, whether paid at the time of purchase of the fisheries resource or tendered as a deferred or delayed payment, except that "value" means the market value of the fishery resource if the taking of the fishery resource is done in company-owned or company-subsidized boats operated by employees of the fisheries business or in boats which are operated under lease or other arrangement. (§ 3 ch 79 SLA 1979; am § 46 ch 94 SLA 1980; am § 46 ch 113 SLA 1980; am §§ 11, 12 ch 117 SLA 1981)

**Revisor's notes.** — Reorganized in 1983 to alphabetize the defined terms.

**Effect of amendments.** — The first and second 1980 amendments both repealed the definition of "year".

The 1981 amendment added "the taking

of" preceding "the fishery resource" and substituted "done" for "procured" preceding "in company-owned" in the definition of "value". The amendment also added the definition of "taking".

**Chapter 76. Salmon Enhancement Tax.**

**Section**

- 10. Three percent salmon enhancement tax
- 11. Two percent salmon enhancement tax
- 15. Election to approve or terminate salmon enhancement tax
- 20. Termination of salmon enhancement tax
- 25. Collection of tax and disposition of proceeds

**Section**

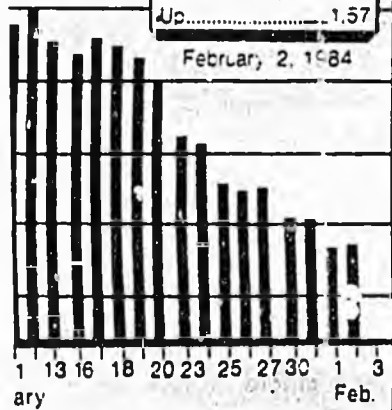
- 28. Liability for tax on salmon shipped from state
- 30. Accounting of financing received as a result of the salmon enhancement tax
- 40. Definition

**Editor's notes.** — For findings and purpose of enacting legislation, see § 1, ch. 154, SLA 1980, in the Temporary and Special Acts.

# arketplace

DOW JONES AVERAGE  
INDUSTRIALS

High.....1223.93  
Low.....1138.49  
Close.....1213.88  
Chg.....-1.57



## arket rebounds



57

2, 1984

Unch.

385

2006

0.35

Volume -

20

opposite

0.62

**NEW YORK** — A late round of buying helped the stock market post its first clear-cut gain in more than two weeks Thursday. Analysts said a recent decline of the dollar in foreign exchanges stirred buying interest in industries such as pharmaceuticals, which do a large share of their business overseas. The Dow Jones average of 30 industrials rose 1.57 to 1,213.88, for its best daily showing since it gained 3.87 points Jan. 15 last month through its close, the average tumbled Thursday's volume on the New York exchange came to 111.33 million shares, up from 107.10 million in the previous

# Fish paste strikes food firms' fancy

## And Alaska has the basic ingredient

By **CHUCK KLEESCHULTE**  
Daily News business reporter

It may not be the savior of the state's fishing industry after the foundering of crab stocks, but production of high-protein fish paste from Alaska's plentiful bottomfish is spawning a lot of interest.

Nearly 200 food companies nationwide in recent weeks have shown interest in experimenting with minced, processed fish — surimi — as a basic ingredient in everything from imitation crab legs and shrimp to new products such as pizza toppings and cheese spreads.

If the colorless, odorless fish paste is widely accepted by American food makers as a key ingredient, it could substantially benefit Alaska processors and fishermen by creating a secondary product, beside fillets, to be made from pollock. That in turn would improve the economics for Alaskans harvesting bottomfish by making better use of smaller-sized groundfish.

"Surimi in itself is not an end-all, but it certainly will help us make better use of our bottomfish and that might help us actually get a full bottomfishing industry going," said Chris Mitchell, executive director of the Alaska Fisheries Development Foundation.

Already sales of surimi or products made from the fish paste have increased tenfold in the United States since 1980.

A year ago the foundation, using \$1.3 million in federal funds, launched a drive first to find uses for and later to promote production of surimi in the United States.

The Anchorage-based foundation last year imported surimi from Japanese producers and gave it to American food companies to encourage them to experiment with developing new product lines.

And late last year the foundation agreed to pay \$350,000 to install the first full-scale surimi processing line in America.

Seattle-based Royal Alaska Seafoods, which operates plants in Unalaska-Dutch Harbor, was selected over four other companies to operate the line. The firm hopes to start producing up to 2,000 pounds of the fish paste an hour during March.

Production could increase when additional Japanese-developed equipment arrives in April.

The foundation will dispense the first surimi produced to food manufacturers to encourage them to devise uses for the white, stabilized fish pulp.

Tom Takeoka, operations manager for Royal Alaska, said his company is strongly interested in learning how to make surimi since it provides a year-round use for bottomfish, allowing for better plant utilization than either salmon or crab processing.

"It's a nine- or 10-month a year operation. It's certainly a promising way to use the 3 billion pounds of pollock that we have available," Takeoka said.

Already there is a growing market for surimi in the United States. Imports from Japan of the product or of finished food made from surimi, such as imitation crab legs or scallops, has gone from 3 million pounds in 1980, to around 29 million pounds last year.

Both Mitchell and Takeoka say there is no reason why the United States shouldn't supply that and all future demand given that the chemical processes to make surimi, although highly mechanized, aren't terribly complex.

Surimi is simply ground up fish, skin and bones removed, that has been washed several times to remove enzymes, perserved in a sugar and chemical base, and then frozen. Like soybeans, it can be textured and flavored to resemble almost any product.

Its advantage, Mitchell said, is it that it retains its fish proteins and remains low in

## Surimi Imports to United States

(in millions of pounds)

1983	29
1982	16
1981	6
1980	3
1979	2



Source: National Fisherman Seafood Business Reports

cholesterol. "It could be made into the first truly healthy snack food."

Mitchell declined to disclose which companies are investigating surimi production and the products they are considering. But he said interest in the product is growing as demonstrated by major articles on it so far this year in food industry trade publications.

# MEMORANDUM

# State of Alaska

TO: Robert D. Heath, Commissioner  
Department of Revenue

DATE: January 31, 1984

FILE NO:

TELEPHONE NO: 465-4100

FROM: Don W. Collinsworth, Commissioner  
Department of Fish and Game

SUBJECT: List of Alaska's  
Developing  
Fisheries, 1984

In accordance with AS 16.05.050(12), I am providing the attached list of fish species the Department of Fish and Game considers developing commercial fish species during 1984. The developing fishery designations were derived under the criteria specified in AS 16.05.050(12).

- A. The optimum yield from the harvest of the species has not been reached,
- B. a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation, or
- C. a commercial harvest of the fish species has recently developed.

A fourth criteria used, but not provided for by statute, considers the situation where there is no existing commercial fishery, but intermittent commercial utilization has occurred in the past. Such fisheries were also considered to be developing.

Two changes have been made to the list this year. The Southeastern Alaska brown king crab fishery and the Southeastern Alaska and Yakutat sablefish (black cod) fishery are now considered fully developed fisheries. An optimum or sustained yield has been set for both fisheries and in recent years that harvest level has been taken relatively quickly, resulting in emergency order closures of the seasons. There is no directed foreign harvest for brown king crab. There is a limited directed foreign harvest for sablefish (815 m.t.) between 140 degrees West longitude to 147 degrees West longitude. The area east of 140 degrees West longitude is closed to foreign harvest of sablefish. A substantial (3,000 m.t.) portion of the harvest is taken by the domestic fishery. The commercial harvest of both species is longstanding.

Should you require further information on the attached list, my office will be glad to respond.

Enclosure

Robert D. Heath

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January 31, 1984

cc: Pennoyer  
Parker  
Clasby  
Thornburgh  
Finger  
CF Regional Supervisors

Dan Anderson, Revenue  
Patty LaPierre, Revenue  
Colleen Brown, Revenue  
Greg Baker, Commerce  
✓Ed Hine, Leg. Affairs

ALASKA DEPARTMENT OF FISH AND GAME  
 ALASKA DEVELOPING FISHERIES - 1984  
 Authority 16.05.050(12)

<u>Species</u>	<u>Area(s) in which species are developing</u>
Herring, sac roe	Bristol Bay Area (5 AAC 27.800) and Bering Sea Area (5 AAC 27.900) - all Bering Sea and Chukchi Sea waters north of the latitude of Cape Menshikof (57°31'20" N. lat.)
Herring, food & bait	Chignik (5 AAC 27.550), South Peninsula-Aleutian Islands (5 AAC 27.600) and North Peninsula Areas (5 AAC 27.700); Gulf of Alaska waters west of 156°20'13" W. long. and Bering Sea waters south of Cape Menshikof (57°31'20" N. lat.)
Shrimp, pot gear	All waters, except for the Cook Inlet Area (5 AAC 31.300 & 400); waters north of Cape Douglas and west of Cape Fairfield.
Shrimp, trawl gear	Bering Sea waters north of 54°36' N. lat. for all types of trawl gear. Southeastern Alaska waters north of Dixon Entrance and south of Cape Spencer for otter trawl gear only.
Sablefish or black cod	All waters, except for the Southeastern Alaska Area (5 AAC 31.100) and the Yakutat Area (5 AAC 31.100); waters north of Dixon Entrance and east of Cape Suckling.
Brown or golden king crab	All waters, except for the Southeastern Alaska Area (5 AAC 33.100); waters north of Dixon Entrance and south of Cape Fairweather.

Developing Fisheries Statewide

Crab other than Dungeness, Tanner, and red and blue king crab	Snails
Clams	Squid
Coral	Freshwater finfish, all species
Octopi	Bottomfish
Scallops	Capelin
Sea Cucumbers	Dolly Varden
Sea Urchins	Lamprey
Kelp	Smelt
	Sandlance