

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4972 HRES HB 364 - HB 395

584

finer applicable to commercial fisheries without addressing violations relating to other occupations. As noted before, the maximum fine of \$5,000 for a commercial fisheries violation has not changed since the 1920's. Other statutes presently in force authorize noncriminal fines that could exceed \$100,000. See, e.g., AS 46.03.758 (environmental pollution violations). Other statutes provide criminal fines far larger than the \$15,000 proposed in HB 364. See AS 46.03.790(d) (criminal penalties up to \$25,000 for false reporting of or failure to report an oil discharge).

A fifth argument in Mr. Robinson's letter is that it may be unconstitutional to provide simple negligence as the culpable mental state required for commercial fisheries offenses. Mr. Robinson states "under this definition [of negligence] a person could be found guilty of a crime for conduct that was purely accidental." It is difficult to perceive what Mr. Robinson means by "purely accidental." Many accidents of course do involve negligence. We believe it is clear from case law in Alaska that in order to be liable for a misdemeanor a person must be shown at the least to have been "negligent," and that the definition of negligence in the context of commercial fisheries violations can, without any constitutional problems, simply be defined as a deviation from the standard of care a reasonable person involved in commercial fishing would observe in the situation. See, e.g., Reynolds v. State, 655 P.2d 1313, 1316-17 (Alaska App. 1982).

For the same reasons stated above with respect to the amount of fines, the legislature is not bound by the definitions of criminal intent found in title 11 (the general criminal code). We believe that to require proof of a "gross" deviation from the standard of care for commercial fisheries violations would present a very serious and unjustified roadblock to prosecution of commercial fisheries cases, as District Attorney Charles Merriner explained to a subcommittee of the House Resources Committee on March 1, 1988.

As stated above, it should be emphasized that fines for both strict liability violations and misdemeanors proposed in HB 364 are maximum fines. A sentencing judge has discretion to fashion an appropriate fine that is lower, taking into account the unique circumstances of each case and each fishery, including, in misdemeanor cases, the seriousness of the negligence involved.

Representative Sam Cotten  
Representative Adelheid Herrmann

March 10, 1988  
Page 6

We hope these comments will be of assistance to your committee in reviewing HB 364 and we appreciate the opportunity to comment.

Yours sincerely,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By: *Sarah E. McCracken*  
Sarah E. McCracken  
Assistant Attorney General

SEM/jmo

cc: Rep. Cliff Davidson  
Rep. Lyman Hoffman  
Rep. Mike Navarre  
Rep. Drue Pearce  
Rep. Richard Shultz  
Rep. Heinrich Springer  
Rep. John Sund  
Sen. Paul Fischer, S. Resources Committee  
Rep. C. E. Swackhammer  
Arthur Robinson, Esq.

HB

389

Shockey -

Maybe there  
should be language  
added which would  
make "injured parties"  
next in line after  
the state

With

B/C ~~there is~~ ~~some~~  
hopefully would prevent  
further communication

Feb 1  
H. Res. Comm  
HB 389

Sund: What is Policy on  
\* Bonding Authority on Sites  
Want Follow-up

DEC has no bonding authority  
DOR has some  
There has been some discussion of increasing  
& enforcing of bonding

Sund / Cotten - well we may want to take this  
up separately

Springer: Do the same regs. & procedures apply to municip-  
alities & small 2<sup>nd</sup> class cities as the  
private sector. Clean-up pressure  
Let's not drive municipalities into bankruptcy

Denny The provisions in the bill don't  $\Delta$  liability. It  
just changes the it so state isn't last in line  
to collect if the responsibility party is going  
bankrupt!

Sund Why should state be ahead in line.  
Wertz Public \$ put up by public for public \$.

Sund Impact of ~~any~~ this bill on private sector.

Nunne \$ for cleanup & impact should be

proportional to the \$ that have been made  
from capitalizing on Res. development  
Right now there's too few dollars in this  
Maybe a bill should be done on this

Sund: re: State lease land - There's another  
approach

Ad: How many \$ in super fund?  
How many in state cleanup fund?

State level just less than \$ 1 million

Ad indemnification

Mertz re: TATS there's a special fund

Mertz 2 or 3 incidents where this law could have worked

Springer More interest in bonding.

Has it been approached that the state would  
be the insurer for construction cost.

Peane\* Also wanted to see more on bonding

# HOUSE COMMITTEE REPORT

(9)

Date referred: 1/22/88

FURTHER REFERRALS:

Judiciary  
Finance

DATE: 2-1-88

The Resources Committee has considered HB 389

"An Act relating to recovery of state costs for oil and hazardous substance releases; and providing for an effective date."

### RECOMMENDS:

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS:  \_\_\_\_\_ letter of intent

### ATTACHES NEW FISCAL NOTE(S):

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

### SIGNING DO PASS:

\_\_\_\_\_  
*Delbert Herrmann*  
 \_\_\_\_\_  
*Cliff Davidson*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_  
*Jim H. Sprague* No rec.  
 \_\_\_\_\_  
*John A. ...* No Rec.  
 \_\_\_\_\_  
*Mike ...* No rec.  
 \_\_\_\_\_  
*Jim ...* No rec.  
 \_\_\_\_\_  
*Cliff Davidson* No rec.

\_\_\_\_\_  
*Sam R. Gt*  
 \_\_\_\_\_  
 Chairman's signature

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: \_\_\_\_\_  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 29 January 1988  
Title: An Act Relating to Oil and  
Hazardous Substance Cleanup Costs  
Sponsor: Governor  
Requestor: House Resources

Agency Affected: DEC, Dept. of Law  
BRU: DEC/Environmental Quality  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS: One

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The bill will not increase state expenditures. Over the long run, it will likely decrease state expenditures for spill cleanup.

Prepared by: Amy D. Kyle  
Division: Commissioner's Office

Phone: 465-2600  
Date: 29 January 1988

Approved by Commissioner: *Amy D. Kyle*  
Agency: Department of Environmental Conservation

Date: \_\_\_\_\_

Distribution (by preparer) :

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

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

POSITION PAPER  
HB 389

CONTACT: AMY D. KYLE  
465-2600

January 29, 1988

### Title

An act relating to oil and hazardous substance cleanup costs

### Effect of the bill

The bill would give the state a priority in recovering its costs for cleanup of oil and hazardous waste sites in cases where the responsible party declares bankruptcy.

### Department Position

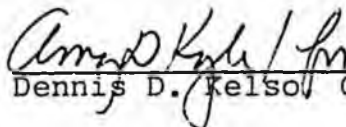
The bill was introduced at the request of the Governor upon the recommendation of the Department of Law. The Department supports the bill.

The state is seeing increasing numbers of cases where entities that are responsible for improper waste disposal declare bankruptcy. In such cases, the state would have to foot the bill for necessary site cleanup costs. This bill would give the state priority in recovering such costs in a bankruptcy proceeding.

Similar legislation has been adopted by several other states and recommended by the U.S. Supreme Court.

### Fiscal Effect

There will be no additional costs associated with this bill. The legislation should reduce State expenditures for cleanup over the long term. The Department has provided a zero fiscal note.

  
Dennis D. Kelso, Commissioner

SUPREME COURT OF THE UNITED STATES

No. 83-1020

OHIO, PETITIONER *v.* WILLIAM LEE KOVACS, DBA  
B & W ENTERPRISES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT

[January 9, 1985]

JUSTICE O'CONNOR, concurring.

I join the Court's opinion and agree with its holding that the cleanup order has been reduced to a monetary obligation dischargeable as a "claim" under §727 of the Bankruptcy Code. I write separately to address the petitioner's concern that the Court's action will impede States in enforcing their environmental laws.

To say that Kovacs' obligation in these circumstances is a claim dischargeable in bankruptcy does not wholly excuse the obligation or leave the State without any recourse against Kovacs' assets to enforce the order. Because "Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law," *Butner v. United States*, 440 U. S. 48, 54 (1979), the classification of Ohio's interest as either a lien on the property itself, a perfected security interest, or merely an unsecured claim depends on Ohio law. That classification—a question not before us—generally determines the priority of the State's claim to the assets of the estate relative to other creditors. Cf. 11 U. S. C. §545 (trustee may avoid statutory liens only in specified circumstances). Thus, a State may protect its interest in the enforcement of its environmental laws by giving cleanup judgments the status of statutory liens or secured claims.

The Court's holding that the cleanup order was a "claim" within the meaning of § 101(4) also avoids potentially adverse

consequences for a State's enforcement of its order when the debtor is a corporation, rather than an individual. In a Chapter 7 proceeding under the Bankruptcy Code, a corporate debtor transfers its property to a trustee for distribution among the creditors who hold cognizable claims, and then generally dissolves under state law. Because the corporation usually ceases to exist, it has no postbankruptcy earnings that could be utilized by the State to fulfill the cleanup order. The State's only recourse in such a situation may well be its "claim" to the prebankruptcy assets.

For both these reasons, the Court's holding today cannot be viewed as hostile to state enforcement of environmental laws.

RECEIVED  
Department of Law

JAN 18 1985

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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

### Syllabus

OHIO *v.* KOVACS, DBA B & W ENTERPRISES ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SIXTH CIRCUIT

No. 83-1020. Argued October 10, 1984—Decided January 9, 1985

Petitioner State of Ohio obtained an injunction in state court ordering respondent and other defendants to clean up a hazardous waste disposal site. When the injunction was not complied with, the State obtained the appointment in state court of a receiver, who was directed to take possession of the defendants' property and other assets and to implement the injunction. The receiver took possession of the site but had not completed his tasks when respondent filed a personal bankruptcy petition. Seeking to require part of respondent's postbankruptcy income to be applied to the receiver's unfinished tasks, the State filed a motion in state court to discover respondent's income and assets. At respondent's request, the Bankruptcy Court stayed these proceedings. The State then filed a complaint in the Bankruptcy Court seeking a declaration that respondent's obligation under the state injunction was not dischargeable in bankruptcy because it was not a "debt" or "liability on a claim" within the meaning of the Bankruptcy Code. For bankruptcy purposes, a debt is a liability on a claim. Section 101(4)(B) of the Bankruptcy Code in pertinent part defines a claim as the "right to an equitable remedy for breach of performance if such breach gives rise to a right of payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured." The Bankruptcy Court ruled against the State, as did the District Court. The Court of Appeals affirmed, holding that the State essentially sought from respondent only a monetary payment and that such a required payment was a liability on a claim that was dischargeable under the Bankruptcy Code.

*Held:*

1. The fact that the Army Corps of Engineers, using funds recovered from those concerns that generated the wastes in question, has removed

## Syllabus

the wastes from the site does not render the case moot. The State still has a stake in the outcome of the case based on its claim that the removal of the wastes did not satisfy all of respondent's obligation to clean up the site since the ground remains permeated with toxic materials that must be removed to avoid further pollution. P. 3.

2. Respondent's obligation under the injunction is a "debt" or "liability on a claim" subject to discharge under the Bankruptcy Code. Contrary to the State's contention, there is no indication in the language of § 101(4)(B) that the right to performance cannot be a claim unless it arises from a contractual arrangement. Moreover, it is apparent that Congress desired a broad definition of a "claim" and knew how to limit the application of a provision to contracts when it desired to do so. Where it is clear that what the receiver wanted from respondent after bankruptcy was the money to defray cleanup costs, the Court of Appeals did not err in concluding that the cleanup order had been converted into an obligation to pay money, an obligation that was dischargeable in bankruptcy. Pp. 3-9.

717 F. 2d 984, affirmed.

WHITE, J., delivered the opinion for a unanimous Court. O'CONNOR, J., filed a concurring opinion.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

## SUPREME COURT OF THE UNITED STATES

No. 83-1020

OHIO *v.* WILLIAM LEE KOVACS, DBA B & W  
ENTERPRISES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT

[January 9, 1985]

JUSTICE WHITE delivered the opinion of the Court.

Petitioner State of Ohio obtained an injunction ordering respondent William Kovacs to clean up a hazardous waste site. A receiver was subsequently appointed. Still later, Kovacs filed a petition for bankruptcy. The question before us is whether, in the circumstances present here, Kovacs' obligation under the injunction is a "debt" or "liability on a claim" subject to discharge under the Bankruptcy Code.

### I

Kovacs was the chief executive officer and stockholder of Chem-Dyne Corp., which with other business entities operated an industrial and hazardous waste disposal site in Hamilton, Ohio. In 1976, the State sued Kovacs and the business entities in state court for polluting public waters, maintaining a nuisance, and causing fish kills, all in violation of state environmental laws. In 1979, both in his individual capacity and on behalf of Chem-Dyne, Kovacs signed a stipulation and judgment entry settling the lawsuit. Among other things, the stipulation enjoined the defendants from causing further pollution of the air or public waters, forbade bringing additional industrial wastes onto the site, required the defendants to remove specified wastes from the property, and ordered the payment of \$75,000 to compensate the State for injury to wildlife.

Kovacs and the other defendants failed to comply with their obligations under the injunction. The State then obtained the appointment in state court of a receiver, who was directed to take possession of all property and other assets of Kovacs and the corporate defendants and to implement the judgment entry by cleaning up the Chem-Dyne site. The receiver took possession of the site but had not completed his tasks when Kovacs filed a personal bankruptcy petition.<sup>1</sup>

Seeking to develop a basis for requiring part of Kovacs' postbankruptcy income to be applied to the unfinished task of the receivership, the State then filed a motion in state court to discover Kovacs' current income and assets. Kovacs requested that the Bankruptcy Court stay those proceedings, which it did.<sup>2</sup> The State also filed a complaint in the Bankruptcy Court seeking a declaration that Kovacs' obligation under the stipulation and judgment order to clean up the Chem-Dyne site was not dischargeable in bankruptcy because it was not a "debt," a liability on a "claim," within the meaning of the Bankruptcy Code. In addition, the complaint sought an injunction against the bankruptcy trustee to re-

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<sup>1</sup> Kovacs originally filed a reorganization petition under Chapter 11 of the Bankruptcy Code, 11 U. S. C. § 1101 *et seq.*, but converted the petition to a liquidation bankruptcy under Chapter 7. See 11 U. S. C. § 1112.

<sup>2</sup> The Bankruptcy Court held that the requested hearing was an effort to collect money from Kovacs in violation of the automatic stay provision. See 11 U. S. C. § 362. It entered a specific stay as well. The District Court affirmed, ruling that Ohio was trying to enforce a judgment obtained before filing of the bankruptcy petition. The Court of Appeals for the Sixth Circuit also found the hearing barred. *In re Kovacs*, 681 F. 2d 454 (1982). In that court's view, while § 362(b) allowed governmental units to continue to enforce police powers through mandatory injunctions, it denied them the power to collect money in their enforcement efforts. Because of the later filing by Ohio of a complaint to declare that Kovacs' obligations were not claims under bankruptcy, we granted certiorari, vacated the judgment of the Court of Appeals, and remanded to that court to consider whether the dispute over the stay was moot. 459 U. S. 1167 (1983). As far as we are advised, the Court of Appeals has taken no action on the remand.

strain him from pursuing any action to recover assets of Kovacs in the hands of the receiver. The Bankruptcy Court ruled against Ohio, *In re Kovacs*, 29 B. R. 816 (SD Ohio 1982), as did the District Court. The Court of Appeals for the sixth circuit affirmed, holding that Ohio essentially sought from Kovacs only a monetary payment and that such a required payment was a liability on a claim that was dischargeable under the bankruptcy statute. *In re Kovacs*, 717 F. 2d 984 (1983). We granted certiorari to determine the dischargeability of Kovacs' obligation under the affirmative injunction entered against him. 465 U. S. (1983).

## II

Kovacs alleges that the Army Corps of Engineers, using funds recovered from those concerns that generated the wastes, has removed all industrial wastes from the site and that if he has an obligation to pay those expenses, the obligation is owed to the United States, not the State. Kovacs urges that the case is therefore moot. The State argues that the case is not moot because the removal of the barrels and wastes from the surface did not satisfy all of Kovacs' obligations to clean up the site; it is said that the ground itself remains permeated with toxic materials that must be removed if further pollution of the public waters is to be avoided. We perceive nothing feigned or frivolous about the State's submission. *Sibron v. New York*, 392 U. S. 40, 57 (1968). The State surely has a stake in the outcome of this case, *United States Parole Comm'n v. Geraghty*, 445 U. S. 388, 397 (1980), which in our view is not moot. We proceed to the merits.

## III

Except for the nine kinds of debts saved from discharge by 11 U. S. C. §523(a), a discharge in bankruptcy discharges the debtor from all debts that arose before bankruptcy. §727(b). It is not claimed here that Kovacs' obligation under the injunction fell within any of the categories of debts ex-

cepted from discharge by § 523. Rather, the State submits that the obligation to clean up the Chem-Dyne site is not a debt at all within the meaning of the bankruptcy law.

For bankruptcy purposes, a debt is a liability on a claim. § 101(11). A claim is defined by § 101(4) as follows:

“(4) ‘claim’ means—

“(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

“(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.”

The provision at issue here is § 101(4)(B). For the purposes of that section, there is little doubt that the State had the right to an equitable remedy under state law and that the right has been reduced to judgment in the form of an injunction ordering the cleanup. The State argues, however, that the injunction it has secured is not a claim against Kovacs for bankruptcy purposes because (1) Kovacs' default was a breach of the statute, not a breach of an ordinary commercial contract which concededly would give rise to a claim; and (2) Kovacs' breach of his obligation under the injunction did not give rise to a right to payment within the meaning of § 101(4)(B). We are not persuaded by either submission.

There is no indication in the language of the statute that the right to performance cannot be a claim unless it arises from a contractual arrangement. The State resorted to the courts to enforce its environmental laws against Kovacs and secured a negative order to cease polluting, an affirmative order to clean up the site, and an order to pay a sum of money to recompense the State for damage done to the fish population. Each order was one to remedy an alleged breach of

Ohio law; and if Kovacs' obligation to pay \$75,000 to the State is a debt dischargeable in bankruptcy, which the State freely concedes, it makes little sense to assert that because the cleanup order was entered to remedy a statutory violation, it cannot likewise constitute a claim for bankruptcy purposes. Furthermore, it is apparent that Congress desired a broad definition of a "claim"<sup>3</sup> and knew how to limit the application of a provision to contracts when it desired to do so.<sup>4</sup> Other provisions cited by Ohio refute, rather than support, its strained interpretation.<sup>5</sup>

The courts below also found little substance in the submission that the cleanup obligation did not give rise to a right to payment that renders the order dischargeable under § 727. The definition of "claim" in H. R. 8200 as originally drafted would have deemed a right to an equitable remedy for breach of performance a claim even if it did not give rise to a right to payment.<sup>6</sup> The initial Senate definition of claim was narrower,<sup>7</sup> and a compromise version, § 101(4), was finally adopted. In that version, the key phrases "equitable remedy," "breach of performance," and "right to payment" are not defined. See 11 U. S. C. § 101. Nor are the differences between the successive versions explained. The legislative

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<sup>3</sup>H. R. Rep. No. 95-595, p. 309 (1977); S. Rep. No. 95-989, p. 21 (1978). See 2 R. Levin & K. Klee, *Collier on Bankruptcy* ¶ 101-.04, 101-16.4 (15th ed. 1984).

<sup>4</sup>See 11 U. S. C. § 365 (assumption or rejection of executory contracts and leases).

<sup>5</sup>Congress created exemptions from discharge for claims involving penalties and forfeitures owed to a governmental unit, 11 U. S. C. § 523(a)(7), and for claims involving embezzlement and larceny, § 523(a)(4). If a bankruptcy debtor has committed larceny or embezzlement, giving rise to a remedy of either damages or equitable restitution under state law, the resulting liability for breach of an obligation created by law is clearly a claim which is nondischargeable in bankruptcy.

<sup>6</sup>H. R. 8200, 95th Cong., 1st Sess., 309-310 (House Committee print 1977), as reported September 8, 1977.

<sup>7</sup>See S. 2266, 95th Cong., 1st Sess., 299 (1977), as introduced October 31, 1977.

history offers only a statement by the sponsors of the Bankruptcy Reform Act with respect to the scope of the provision:

"Section 101(4)(B) . . . is intended to cause the liquidation or estimation of contingent rights of payment for which there may be an alternative equitable remedy with the result that the equitable remedy will be susceptible to being discharged in bankruptcy. For example, in some States, a judgment for specific performance may be satisfied by an alternative right to payment in the event performance is refused; in that event, the creditor entitled to specific performance would have a "claim" for purposes of a proceeding under title 11."<sup>8</sup>

We think the rulings of the courts below were wholly consistent with the statute and its legislative history, sparse as it is. The Bankruptcy Court ruled as follows, *In re Kovacs*, 29 B. R., at 816:

"There is no suggestion by plaintiff that defendant can render performance under the affirmative obligation other than by the payment of money. We therefore conclude that plaintiff has a claim against defendant within the meaning of 11 U. S. C. § 101(4), and that defendant owes plaintiff a debt within the meaning of 11 U. S. C. § 101(11). Furthermore, we have concluded that that debt is dischargeable."<sup>9</sup>

<sup>8</sup> 124 Cong. Rec. 32393 (1978) (remarks of Rep. Edwards); see also *id.*, at 33992 (remarks of Sen. DeConcini).

<sup>9</sup> More fully stated, the Bankruptcy Court's observations were:

"What is at stake in the present motion is whether defendant's bankruptcy will discharge the affirmative obligation imposed upon him by the Judgment Entry, that he remove and dispose of all industrial and/or other wastes at the subject premises. If plaintiff is successful here, it would be able to levy on defendant's wages, the action prevented by our Prior Decision, after defendant's bankruptcy case is closed and/or the stay of 11 U. S. C. § 362 as interpreted by our Prior Decision is no longer in force. The parties have crystallized the issue here in simple fashion, plaintiff stoutly insisting that the just identified affirmative obligation is not a monetary obligation, while defendant says that it is. The problem arises, of

The District Court affirmed, primarily because it was bound by and saw no error in the Court of Appeals' prior opinion holding that the State was seeking no more than a money judgment as an alternative to requiring Kovacs personally to perform the obligations imposed by the injunction. To hold otherwise, the District Court explained, "would subvert Congress' clear intention to give debtors a fresh start." App. JA-16. The Court of Appeals also affirmed, rejecting the State's insistence that it had no right to, and was not attempting to enforce, an alternative right to payment:

"Ohio does not suggest that Kovacs is capable of personally cleaning up the environmental damage he may have caused. Ohio claims there is no alternative right to payment, but when Kovacs failed to perform, state law gave a state receiver total control over all Kovacs' assets. Ohio later used state law to try and discover Kovacs' post-petition income and employment status in an apparent attempt to levy on his future earnings. In reality, the only type of performance in which Ohio is now interested is a money payment to effectuate the Chem-Dyne cleanup."

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course, because it is not stated as a monetary obligation. Essentially for this reason plaintiff argues that it is not a monetary obligation. Yet plaintiff in discussing the background for the Judgment Entry says that it expected that defendant would generate sufficient funds in his ongoing business to pay for the clean-up. Moreover, we take judicial notice that plaintiff sought discovery with respect to defendant's earnings, the matter dealt with in our Prior Decision, for the purpose of levying upon his wages, a technique which has no application other than in the enforcement of a money judgment. There is no suggestion by plaintiff that defendant can render performance under the affirmative obligation other than by the payment of money. We therefore conclude that plaintiff has a claim against defendant within the meaning of 11 U. S. C. § 101(4), and that defendant owes plaintiff a debt within the meaning of 11 U. S. C. § 101(11). Furthermore, we have concluded that that debt is dischargeable." 29 B. R., at 818.

"The impact of its attempt to realize upon Kovacs' income or property cannot be concealed by legerdemain or linguistic gymnastics. Kovacs cannot personally clean up the waste he wrongfully released into Ohio waters. He cannot perform the affirmative obligations properly imposed upon him by the State court except by paying money or transferring over his own financial resources. The State of Ohio has acknowledged this by its steadfast pursuit of payment as an alternative to personal performance." 717 F. 2d, at 987-988.

As we understand it, the Court of Appeals held that, in the circumstances, the cleanup duty had been reduced to a monetary obligation.

We do not disturb this judgment. The injunction surely obliged Kovacs to clean up the site. But when he failed to do so, rather than prosecute Kovacs under the environmental laws or bring civil or criminal contempt proceedings, the State secured the appointment of a receiver, who was ordered to take possession of all of Kovacs' nonexempt assets as well as the assets of the corporate defendants and to comply with the injunction entered against Kovacs. As wise as this course may have been, it dispossessed Kovacs, removed his authority over the site, and divested him of assets that might have been used by him to clean up the property. Furthermore, when the bankruptcy trustee sought to recover Kovacs' assets from the receiver, the latter sought an injunction against such action. Although Kovacs had been ordered to "cooperate" with the receiver, he was disabled by the receivership from personally taking charge of and carrying out the removal of wastes from the property. What the receiver wanted from Kovacs after bankruptcy was the money to defray cleanup costs. At oral argument in this Court, the State's counsel conceded that after the receiver was appointed, the only performance sought from Kovacs was the payment of money. Tr. of Oral Arg. 19-20. Had Kovacs furnished the necessary funds, either before or after bank-

ruptcy, there seems little doubt that the receiver and the State would have been satisfied. On the facts before it, and with the receiver in control of the site,<sup>10</sup> we cannot fault the Court of Appeals for concluding that the cleanup order had been converted into an obligation to pay money, an obligation that was dischargeable in bankruptcy.<sup>11</sup>

#### IV

It is well to emphasize what we have not decided. First, we do not suggest that Kovacs' discharge will shield him from prosecution for having violated the environmental laws of Ohio or for criminal contempt for not performing his obligations under the injunction prior to bankruptcy. Second, had a fine or monetary penalty for violation of state law been imposed on Kovacs prior to bankruptcy, § 523(a)(7) forecloses any suggestion that his obligation to pay the fine or penalty would be discharged in bankruptcy. Third, we do not address what the legal consequences would have been had Kovacs taken bankruptcy before a receiver had been appointed and a trustee had been designated with the usual

<sup>10</sup>We were advised at oral argument that the receiver at that time was still in possession of the site, although he was contemplating terminating the receivership. Tr. of Oral Arg. 4, 56-57. We were also advised that it was difficult to tell exactly who owned the property at 500 Ford Boulevard and that although the trustee did not formally abandon the property, he did not seek to take possession of it. *Id.*, at 55, 58.

<sup>11</sup>The State relies on *Penn Terra, Ltd. v. Department of Environmental Resources*, 733 F. 2d 267 (CA3 1984). There, the Court of Appeals for the Third Circuit held that the automatic stay provision of 11 U. S. C. § 362 did not apply to the State's seeking an injunction against a bankrupt to require compliance with the environmental laws. This was held to be an effort to enforce the police power statutes of the State, not a suit to enforce a money judgment. But in that case, there had been no appointment of a receiver who had the duty to comply with the state law and who was seeking money from the bankrupt. The automatic stay provision does not apply to suits to enforce the regulatory statutes of the State, but the enforcement of such a judgment by seeking money from the bankrupt—what the Court of Appeals for the Sixth Circuit concluded was involved in this case—is another matter.

duties of a bankruptcy trustee.<sup>12</sup> Fourth, we do not hold that the injunction against bringing further toxic wastes on the premises or against any conduct that will contribute to the pollution of the site or the State's waters is dischargeable in bankruptcy; we here address, as did the Court of Appeals, only the affirmative duty to clean up the site and the duty to pay money to that end. Finally, we do not question that anyone in possession of the site—whether it is Kovacs or another in the event the receivership is liquidated and the trustee abandons the property, or a vendee from the receiver or the bankruptcy trustee—must comply with the environmental laws of the State of Ohio. Plainly, that person or

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<sup>12</sup>The commencement of a case under the Bankruptcy Act creates an estate which, with limited exceptions, consists of all of the debtor's property wherever located. 11 U. S. C. § 541. The trustee, who is to be appointed promptly in Chapter 7 cases, is charged with the duty of collecting and reducing the property of the estate and is to be accountable for all of such property. 11 U. S. C. § 704. A custodian of the debtor's property appointed before commencement of the case is required to deliver the debtor's property in his custody to the trustee, unless the bankruptcy court concludes that the interest of creditors would be better served by permitting the custodian to continue in possession and control of the property. 11 U. S. C. § 543. After notice and hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value to the estate. 11 U. S. C. § 554. Such abandonment is to the person having the possessory interest in the property. S. Rep. No. 96-989, p. 92 (1978). Property that is scheduled but not administered is deemed abandoned. 11 U. S. C. § 554(c). Had no receiver been appointed prior to Kovacs' bankruptcy, the trustee would have been charged with the duty of collecting Kovacs' nonexempt property and administering it. If the site at issue were Kovacs' property, the trustee would shortly determine whether it was of value to the estate. If the property was worth more than the costs of bringing it into compliance with state law, the trustee would undoubtedly sell it for its net value, and the buyer would clean up the property, in which event whatever obligation Kovacs might have had to clean up the property would have been satisfied. If the property were worth less than the cost of cleanup, the trustee would likely abandon it to its prior owner, who would have to comply with the state environmental law to the extent of his or its ability.

firm may not maintain a nuisance, pollute the waters of the State, or refuse to remove the source of such conditions. As the case comes to us, however, Kovacs has been dispossessed and the State seeks to enforce his cleanup obligation by a money judgment.

The judgment of the Court of Appeals is

*Affirmed.*

(c) of section 22a-56. Any provision of this section shall be deposited in the register pursuant to subsection (b) or mitigation.

P.A. 76-9, S. 1, 2; P.A. 79-605, S. 3, 17; P.A. 84-370, S. 1, 6; P.A. 85-177, S. 1, 2;

to study pesticide pollution of groundwaters

added proviso allowing assessment of treble damages to water resources commission and its chairman in cases where provisions applicable in cases where the discharge was negligently caused for gross negligence and one-half times the costs and expenses incurred in cases where damages would exceed \$100,000 to emergencies, to uncontrolled losses of hazardous materials, deleted provision setting forth allocation of costs. Subsec. (d) to authorize expenditures for cleanup, Compensation and Liability Act of 1980, to authorize expenditures for hazardous waste disposal sites, and to specify limits on expenditures for hazardous waste owned by municipalities. Subsec. (e) to require that not more than \$80,000 be expended for cleanup. Subsec. (f) by limiting expenditures for short-term provision and capital expenditures for the hazardous waste cleanup. Subsec. (g) by imposing limit on expenditures for drinking water, requiring the commissioner to establish the cap on the amount that can be expended for drinking water. Subdiv. (5) to authorize expenditures for double damages if pollution was willful. Subdiv. (6) to authorize expenditures for the Hazardous Waste Management Service in cases of potable drinking water and a pesticide study.

On the second Wednesday after the meeting of the assembly, the commissioner of environmental protection, or his joint standing committee of the assembly, shall report to the general assembly the status of the fund for the

reimbursement for containment or mitigation of pollution. (a) Any person, firm, or otherwise mitigates the effects of a discharge of oil or gaseous products or hazardous materials or uncontrolled loss, seepage or filtration of oil or hazardous materials, or reimbursement from any person, firm or corporation, for such containment, removal, or cleanup of solid, liquid or gaseous products or hazardous materials or other emergency resulted from such discharge, any person, firm or corporation. When such

pollution or contamination or emergency results from the joint negligence or other actions of two or more persons, firms or corporations, each shall be liable to the others for a pro rata share of the costs of containing, and removing or otherwise mitigating the effects of the same and for all damage caused thereby.

(b) No person, firm or corporation which renders assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous materials or which assists in preventing, cleaning-up or disposing of any such discharge shall be held liable, notwithstanding any other provision of law, for civil damages as a result of any act or omission by him in rendering such assistance or advice, except acts or omissions amounting to gross negligence or wilful or wanton misconduct, unless he is compensated for such assistance or advice for more than actual expenses. For the purpose of this subsection, "discharge" means spillage, uncontrolled loss, seepage or filtration and "hazardous materials" means any material or substance designated as such by any state or federal law or regulation.

(c) The immunity provided in this section shall not apply to (1) any person, firm or corporation responsible for such discharge, or under a duty to mitigate the effects of such discharge, (2) any agency or instrumentality of such person, firm or corporation or (3) any person, firm or corporation negligent in the operation of a motor vehicle.

(1969, P.A. 765, S. 5; 1971, P.A. 872, S. 105; P.A. 79-605, S. 6, 17; P.A. 83-374, S. 1, 2; P.A. 86-239, S. 12, 14.)

History: 1971 act replaced reference to water resources commission in Subsec. (b) with reference to environmental protection commissioner; P.A. 79-605 clarified provisions by adding references to containment or mitigation of pollutants, to "solid, liquid or gaseous" products, to hazardous wastes, etc.; Sec. 25-54ff transferred to Sec. 22a-452 in 1983; P.A. 83-374 replaced existing provisions re liability of persons, firms and corporations assisting in cleaning up or disposing of discharges with new provisions and defined "discharge" and "hazardous material" and added Subsec. (c), excluding from the immunities provided those responsible for the discharge or those who are negligent in the operation of a motor vehicle; P.A. 86-239 amended Subsec. (a) by authorizing municipalities to be reimbursed for clean-up expenses.

**Sec. 22a-452a. State lien against real estate as security for amounts paid to clean up hazardous waste.** (a) On and after June 3, 1985, any amount paid by the commissioner of environmental protection pursuant to subsection (b) of section 22a-451 to contain and remove or mitigate the effects of a spill shall be a lien against the real estate of the person causing such spill in accordance with the provisions of this section.

(b) A lien pursuant to this section shall not be effective unless (1) a certificate of lien is filed in the land records of each town in which the real estate is located, describing the real estate, the amount of the lien, the name of the owner as grantor and the name of the person causing the spill, if known, and (2) the commissioner mails a copy of the certificate to such persons and to all other persons of record holding an interest in such real estate over which the commissioner's lien is entitled to priority.

(c) Such lien shall take precedence over all transfers and encumbrances recorded on or after June 3, 1985, in any manner affecting such interest in such real estate or any part of it on which the spill occurred or from which the spill emanated, or real estate which has been included, within the preceding three years, in the property description of such real estate and is contiguous to such real estate. This subsection shall not apply to real estate which consists exclusively of residential real estate, including but not limited to, residential units in any common interest community, as defined in section 47-202.

(d) In the case of all other real estate, including real estate which consists exclusively of residential real estate, including but not limited to, residential units in any common interest community, as defined in section 47-202, the lien shall take precedence over any transfer or encumbrance recorded after the commissioner files with the town clerk notice of intent to file a lien on the land records in the town in which the real estate is located.

(e) When any amount with respect to which a lien has been recorded under the provisions of this section has been paid or reduced, the commissioner, upon request of any interested party, shall issue a certificate discharging or partially discharging such lien, which certificate may be recorded in the same office in which the lien was recorded. Any action for reduction or discharge of such lien or any appeal therefrom shall be in accordance with the provisions of sections 49-35a to 49-35c, inclusive, except that the forms prescribed in section 49-35a shall be modified as the court deems appropriate. Any action for the foreclosure of such lien shall be brought by the attorney general in the name of the state in the superior court for the judicial district in which the property subject to such lien is situated, or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district, and the court may limit the time for redemption or order the sale of such property or make such other or further decree as it judges equitable.

(P.A. 84-335, S. 2; P.A. 85-443, S. 2, 5.)

History: P.A. 85-443 divided section into Subsecs. and amended Subsec. (a) to apply section to amounts paid after June 3, 1985, instead of October 1, 1984; inserted new provisions as Subsec. (b) to require filing of the lien in the town clerk's office; amended Subsec. (c) to give the lien precedence over transfers and encumbrances to property on which the spill occurred or emanated from three years prior to the spill except residential real estate; inserted new provisions as Subsec. (d) to give the lien precedence over all transfers after filing, and amended Subsec. (e) to authorize the commissioner to issue a certificate partially discharging the lien.

**Sec. 22a-452b. Exemption.** Notwithstanding any provision of the general statutes, a mortgagee who acquires title to real estate by virtue of a foreclosure or tender of a deed in lieu of foreclosure, shall not be liable for any assessment, fine or other costs imposed by the state for any spill upon such real estate beyond the value of such real estate, provided such spill occurred prior to the date of acquisition of title to such real estate by such mortgagee.

(P.A. 85-443, S. 3, 5.)

**Sec. 22a-452c. Definition of spill.** For the purposes of sections 22a-452a and 22a-452b, "spill" means the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous waste.

(P.A. 85-443, S. 1, 5.)

**Sec. 22a-453. (Formerly Sec. 25-54gg). Coordination of activities with other agencies. Contracts for services.** The commissioner shall represent the state in its relations with the federal government and with any municipality and with any regional or interstate authority in all matters relating to oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes pollution or contamination or emergency resulting from the discharge, spillage, uncontrolled loss, seepage or filtration of such substance or material or waste. Said commissioner may enter into agreements with the federal government, such municipalities or authorities, to coordinate supervisory activities and, subject to adequate appropriation, share reasonable costs. The

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## L.S. 30:1149.6

## MINERALS, OIL, AND GAS

compel cleanup or containment consistent with regulations and guidelines established by the secretary.

E. (1) When a site has been declared an abandoned hazardous waste site, the secretary is authorized to undertake the physical control, containment ~~and cleanup~~, or closure of the abandoned hazardous waste site and may retain personnel for these purposes who shall operate under his direction.

(2) In all cases in which the secretary proposes to treat, store, or dispose of hazardous wastes at the abandoned hazardous waste site, he shall prepare a closure plan setting forth how the site will be closed. The secretary shall provide an opportunity for the public to submit comments about the plan. The secretary shall provide adequate notice to the public of any public hearings on the closure plan by placing a notice in the general circulation newspaper of the parish in which the hearing is to be held. If the secretary determines that immediate action is required to secure the site or dispose of any waste in order to protect the health or safety of persons affected by the site or its contents or to protect the environment, he may take such action prior to submission of the plan and may subsequently submit a plan detailing emergency actions taken and those actions which he will be taking in the future.

(3) The secretary shall have authority to implement the closure plan and to take all actions including erecting fences, signs, gates, levees, and monitoring devices as are reasonably necessary to secure the site and prevent unauthorized or inadvertent entry.

F. (1) The secretary, by recording the declaration of abandonment in the mortgage records of the parish where the property is located, may create a lien against property declared to be abandoned to the extent of the expenditures by the state necessary to remedy the problem or to the extent of the appraised value after said expenditures, whichever is less. The secretary may provide in the declaration that the lien is limited to certain portions of property declared to be abandoned and may provide that a lien shall not be recorded against property of a person that the commission finds was in no way responsible for the spill or accident causing the damage requiring the expenditure of money from the fund. The filing of a sworn statement of the amount expended perfects the lien retroactively to the date of the recordation of the declaration.

(2) Subsequent to a declaration of abandonment, a person whose property has been declared to be abandoned and against which a lien has been created thereby may apply to the secretary or file an action in the district court to require that the clerk erase the lien from the records if the secretary or the court finds that the spill was in no way caused by any action or negligence on the part of the person who is the owner of the property subject to the lien or may file an action to have the debt reduced to the appraised value of the property.

Added by Acts 1984, No. 674, § 1.

§ 1149.7. Hazardous Waste Assessment Report; requirements; submission

A. The secretary is hereby authorized and mandated to develop a comprehensive evaluation of hazardous waste in Louisiana, and to issue such evaluation in the form of a report as provided for herein. The office of solid and hazardous waste shall assist the secretary in the development and on-going update of the report.

B. Prior to January 31, 1986, the secretary shall present a report as authorized in Subsection A of this Section to the Senate and House Natural Resources Committees. The report shall, at a minimum, provide the following information:

(1) An inventory of the known hazardous waste sites in Louisiana, including:

(a) The types of wastes as determined by the secretary to be present in the waste sites.

(b) An estimate of the amount of each type of waste in a waste site as may be reasonably determined by the secretary.

7.1

water by the department of health and environment or the federal environmental protection agency under the authority of the Safe Drinking Water Act. All such tests shall be paid for by such county. [Acts 1983, ch. 423, § 8.]

**Compiler's Notes.** Concerning the Safe Drinking Water Act referred to in subsection (b), the federal act by that name is compiled in U.S.C. in various sections throughout titles 5, 21, and 42, and the Tennessee act of the same name is codified in part 7, chapter 13 of this title. **Section to Section References.** This section is referred to in § 68-46-210.

**68-46-209. Liens on property.** — (a) Whenever a hazardous substance site is placed on the list of hazardous substance sites pursuant to § 68-46-206(e), or whenever the commissioner otherwise begins to expend money for investigation, identification, containment or clean up of a particular site under this part, the commissioner may file a notice with the office of the register of deeds of the county in which the property lies.

(b) Within one (1) year after the completion of a project to contain or clean up the hazardous substance at a particular site under this part, the commissioner shall itemize the money so expended and shall file a statement thereof in the office of the register of deeds of the county in which the property lies, together with notarized appraisals by an independent appraiser of the value of the property before and after the clean up work performed at the site, if the money so expended shall result in a significant increase in property values. Such statement shall constitute a lien upon such land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the property as a result of the clean up work.

(c) If the property owner is aggrieved by the amount of the lien filed under subsection (a), the property owner may cause another appraisal to be performed by an independent appraiser and may submit the matter to the chancery court of the county in which the property is located to determine the appropriate amount of the lien. A decision of that court may be appealed according to the Tennessee Rules of Appellate Procedure.

(d) The lien provided in this section shall be entered in the records of the register of deeds of the county in which the property lies. Such statements shall constitute a lien upon such property as of the date the notice is filed pursuant to subsection (a), and shall have priority as a lien second only to tax liens. Such a lien shall be satisfied to the extent of the value of the consideration received at the time of transfer of ownership, and if the lien is not fully satisfied at the time of transfer, it shall remain a lien on the property until it is fully satisfied.

(e) A form of notice substantially as follows is sufficient to comply with subsection (a):

NOTICE OF LIEN UNDER  
HAZARDOUS WASTE MANAGEMENT ACT OF 1983

Name of titleholder(s) .....  
Property address .....  
Description of property subject to possible lien sufficient to identify such property .....

Legislative Reference Library  
P.O. Box 7 - State Capitol  
Nashville, Tennessee 37243  
11/11/83

Date, signature, and address of the Commissioner or his authorized designee .....

The register of deeds shall note the date and time of filing, and an appropriate registration number, and shall record the notice in the lien book in the office of the register.

(f) The effective date of all prior liens claimed under this chapter shall be unaffected by the 1986 amendment to this section if a notice is filed in accordance with subsection (a) of this section on or before December 31, 1986, which notice shall set forth, in addition to the information required by subsection (e) hereof, the claimed effective date of the lien if earlier than the date of the filing of the notice. After December 31, 1986, all claimed liens shall be effective as of the date the notice is filed pursuant to subsection (a). [Acts 1983, ch. 423, § 9; 1986, ch. 528, § 1.]

Compiler's Notes. Acts 1986, ch. 528, § 1. added (a), (e), and (f) and amended (d).

68-46-210. Responsible waste disposal incentive fund. — (a) There is created a special agency account in the general fund to be known as the "responsible waste disposal incentive fund."

(b) There is appropriated to the responsible waste disposal incentive fund the sum of five hundred thousand dollars (\$500,000) for fiscal year 1983-1984 and there shall be appropriated the sum of one million five hundred thousand dollars (\$1,500,000) for fiscal year 1984-1985.

(c) Interest accruing on investments and deposits of such fund shall be returned to it and remain a part of such fund.

(d) Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with the provisions of this section.

(e)(1) The board shall promulgate rules and regulations in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish eligibility requirements for a local government to receive the money deposited in the responsible waste disposal incentive fund.

(2) At a minimum, for a local government to be eligible to receive such funds, the commercial facility must be located within the jurisdiction of such local government, such facility must have a permit to operate pursuant to the provisions of § 68-46-108, such facility must be constructed and operational and the following standards must be met:

(A) The facility is multi-purpose with both land disposal capability and facilities for advanced technology, high-temperature thermal treatment;

(B) The facility has a minimum design capacity to operate for twenty (20) years;

(C) The facility is operated pursuant to the provisions of part 1 of this chapter; and

(D) The local government with jurisdiction over the facility does not have any zoning requirement, subdivision regulation, ordinance, regulation or

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# HOUSE COMMITTEE REPORT

(9)

Date referred: 1/25/88

FURTHER REFERRALS: Judiciary

DATE: 4-25-88

The Resources Committee has considered HB 393

"An Act penalizing the unauthorized release of livestock or farm animals."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*Udothaid Herrmann*  
 \_\_\_\_\_  
*Frank Lorenz*  
 \_\_\_\_\_  
*Dick Stult*  
 \_\_\_\_\_  
*Heinrich Springer*  
 \_\_\_\_\_  
*Sam Art*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*John ...*  
 \_\_\_\_\_  
*John ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Sam Art*  
 \_\_\_\_\_  
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: 2/3/88 Agency Affected: Fish and Game  
 Title: An Act relating to corrective BRU: Game  
management of threatened stocks...  
 Sponsor: Coalhill Components: \_\_\_\_\_  
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		59.4	61.8	63.3	65.8	68.4
TRAVEL		8.0	8.0	8.0	8.0	8.0
CONTRACTUAL		10.0	10.0	10.0	10.0	10.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	78.4	80.8	82.3	84.8	87.4

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	78.4	80.8	82.3	84.8	87.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME	0	3	3	3	3	3
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached page.

Prepared by: Donald E. McKnight Phone: 465-4190  
 Division: Game Date: 3/22/88  
 Approved by Commissioner: *Donna Coakley* Date: 3-22-88  
 Agency: Fish and Game

Distribution (by preparer):

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

Page Two

Fiscal Note for CSSB 393  
Management of Threatened Stocks of Game

The emergency nature of the actions necessitated by passage of this bill makes it impossible to accurately predict the level of funding needed to complete work on the CSMPs. At a minimum, however, it appears that we will have to hire an additional 9 months of P/S Game Biologist II support for the Interior and 3 months of P/S Game Biologist II support for Southcentral in FY 89. The above budget includes monies for these salaries and benefits plus money to support necessary travel, per diem, supplies and contractual services for these employees. It is important to recognize additionally that the development of CSMPs will place an additional workload on area biologists, regional management coordinators and supervisors and the Game Director. If development of CSMPs incurs additional costs to those above, the department will report to the Legislature with additional fiscal information based on actual impacts of this legislation.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Game	BILL NUMBER CSSB 393 (Res)	SPONSOR Senator Coghill
SHORT TITLE OF BILL An Act relating to Corrective Management of Threatened Stocks of Game			
DEPARTMENT POSITION Opposed			
PREPARED BY Donald E. McKnight	DATE 3/18/88	COMMISSIONER'S SIGNATURE <i>Donnell G. Ellsworth</i>	DATE 3-22-88

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Board of Game	CONSTITUENT GROUPS AFFECTED BY BILL All users of wildlife
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This bill appears to be an attempt to insure that when a game population declines to levels at which human utilization must be severely restricted or curtailed, the Board of Game must develop (be provided with) an action plan designed to increase that population to levels which will support optimal human utilization. In addition, the Board must at least draft regulations necessary to implement that plan. This Corrective Stock Management Plan (CSMP) then must be provided to local advisory committees.

ANALYSIS OF BILL/PROGRAM EFFECTS

Under this bill, the Board of Game would, after receiving information from the department that a game population will not or may not sustain continued human utilization, develop a "corrective stock management plan" (CSMP) designed to restore that population to levels which would support human use, presumably harvest. Because the Board of Game has no staff to write CSMPs, this task would, by necessity, be absorbed by Game Division. Very likely the Area Biologist for the Unit in which the "threatened" stock occurs would be the one writing the CSMP for that threatened stock; this redirection of staff time would necessitate the hiring of additional biologists or technicians to provide assistance to an area biologist involved in writing a CSMP. Because the Game Division has a dynamic and responsive management planning system already in place, development of CSMPs constitutes a redundancy of effort which is both unnecessary and economically unsound.

AMENDMENTS PROPOSED

Use of the term "threatened" (Page 1, lines 6, 13, 19, 21, 23 and 27; page 2, lines 3 and 21) will be very confusing to agencies and the public. This term is normally applied in Federal law, news media, etc., to species which are in danger of becoming endangered (a species whose very existence is threatened). Use of the term "threatened" to mean human use of a population is in jeopardy, will be confusing to the public and the courts.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

# Alaska State Legislature

SAM → Ned

REPRESENTATIVE  
MIKE W MILLER  
PO Box 55094  
North Pole, Alaska 99705  
(907) 488-2687



While in Juneau  
PO Box V  
Juneau, Alaska 99811  
(907) 465 4976

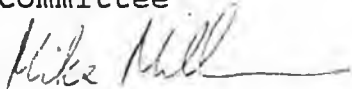
District 18  
North Pole  
Badger Road  
Eielson  
Moose Creek  
Salcha

## House of Representatives

A handwritten signature in black ink, appearing to be "OK" or similar initials.

### MEMORANDUM

TO: Representative Sam Cotten  
Co-Chair, House Resources Committee

FROM: Representative Mike Miller 

RE: Hearing request for HB 393, an act relating to unauthorized release of livestock or farm animals and, HB 395, an act relating to collection permits

DATE: 3/21/88

---

These two bills were introduced as a package at the request of the Alaska Fur Ranchers Association.

HB 393 would add the unauthorized release of livestock or farm animals, including fur farm animals, to the list of actions that constitute the crime of criminal mischief in the third degree. Individuals who own farm stock have generally made a considerable investment which can be lost if the animals are set free. A fine of up to \$5000 could be imposed against individuals convicted under the new wording of HB 393

HB 395 restructures and adds to the existing statutory language governing the issuance of permits to collect animals from the wild. The two major additions specify that fur animals may be taken from the wild to diversify existing farm stock through cross breeding, and to establish the initial breeding stock of a new farm. I have attached a highlighted copy of this bill for your reference.

I have also attached a packet of information outlining some of the gains that other countries have made in the commercial fur industry. This information was forwarded to me by Mr. Richard Carda, President of the Alaska Fur Ranchers Association.

I would like to request that these two bills be considered for scheduling before the House Resources Committee. I would also like to request that Mr. Carda be allowed to testify via teleconference when this hearing takes place.

Attachments

02/15/88

Rep. Mike Miller  
House Of Representatives  
P.O. Box V  
Juneau, Alaska 99811

MAR 07 1988

Dear Rep. Miller,

Rep. Miller, Allow me to introduce myself. My Name is Richard J. Carda and I am President of the Alaskan Fur Ranchers Asso. (AFRA).

In 1981 there were only four fur farms in the state of Alaska and the industry was at a standstill. The fur ranchers knew the potential for a complete fur industry was enormous. We also knew it would be difficult and we needed to be organized to move into the world as a worthy competitor. AFRA was formed in 1982 to promote fur farming in the state. We grew slowly over the years that followed, but grow we did, from four farms sitting around a kitchen table to thirty-three farms spread over the entire state from Eagle to Kenai to Bethel to Kotzebue to Fairbanks and all points in between. Growth has been slow and steady. The slow pace has been due to the fact that this is a hard and expensive business to get started. The cost to get started is a total commitment of time and energy and every dollar you ever saved. We are committed to rebuild the fur industry in Alaska. The economic value will reach far into the future long after the oil money is gone.

I'm enclosing a pamphlet printed by the Interior Economic Development Asso. Please take time from your busy schedule to read the material. The conference pointed out many important facts. Among them were...

The Alaskan Fur Ranchers are not alone in the development of the fur industry in Alaska. We have been working for the industry a little longer...

Alaska is years behind the rest of the world in the development of the our fur industry even though we are in the best geographic area possible.

We need your help! We need you to stand with us in our time of need. The Individuals involved in the fur industry and the state needs to unite.

There are several other interesting facts I'm sure you will find as you read the pamphlet, i.e., the enormous amount of money involved.

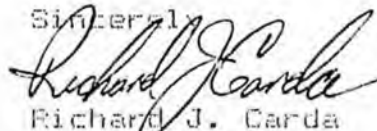
Mike, Coming up before you soon are two house bills. One bill is for protection. This bill would make it a felony for anyone to enter a fur farm and harass, steal or set free any of the live stock. Hopefully this will make those people think twice before entering the farm. The second is a bill that would allow us (farmers) to go into the wild and collect wild stock to develop completely Alaskan fur, to increase our knowledge of other fur bearing animals and in so doing help us to compete today and tomorrow in the world market place.

At the moment there are an estimated 20,000 trappers in the state of Alaska. Each trapper buys a \$5.00 trapping license and is allowed to KILL as many animals as he can catch with in the generous limits set down by Fish & Game. I could do the same with a license but I am a farmer not a trapper. Our bill would allow us to hire an Alaskan trapper to bring them back alive and by doing so the trapper would benefit with a better price, the fur farmer would benefit with new animals to work with and the fur industry would benefit with growth. To make it even better there is no added pressure put on the wild stock. Regardless of the number of wild animals requested by the farmer would be limited by the legal limit of the trappers that are hired.

We are interested in developing an all- Alaskan Ranch Mink from wild stock, " Alaskan Grown " by alaskan farmers. We are also interested in studying the Alaskan Sable (marten). Very little is known about these animals. We need your help to begin.

Mike, I speak for everyone involved when I say, "PLEASE Mike" vote yes on HB393 and HB395, we need your help to move Alaska forward.

Sincerely,



Richard J. Carda  
R & D Fur Farm  
Box 4553  
Eielson, Alaska 99702

# Development of a Competitive Alaskan Fur Industry

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*A workshop brief  
prepared by:*

*Gerald Victor  
Certified Master Furrier*

*and*

*Thomas Gaylord, Ph.D.*

**Interior Economic Development Conference**

August 1-2, 1987  
Fairbanks, Alaska  
Alaskaland Civic Auditorium

# Fairbanksans seek to develop fur institute



The glistening fur coats that are created by Alaska pelts are sold the world over, but few of the purchasers of this ultimate in luxury know from whence their coat came. This warm wrap is natural Alaska sable, which retails on the market for \$26,000 to \$145,000. PHOTO COURTESY GERALD & VICTOR FUR FARMERS

By SALLY J. SUDDOCK

**M**ention the word "Fairbanks" to most folks and more often than not, the association "cold" will spring (winter?) to mind. Mention the word "cold," and the gentler sex might immediately think of a warm, flowing fur coat as an antidote to the long, dark winter.

It should come as no surprise, then, that Fairbanks is perfectly suited—geographically and by image—to make its mark in boutiques and salons the world over as a supplier of the raw materials for this luxury-item market.

It might come as a surprise, however, that currently this is not the case.

A group of Fairbanks fur-industry leaders are out to change that. Despite a traditional abundance of fur-bearing animals statewide, Alaska is caught in a trap of no identity and no aggressive marketing, says Gerald Victor, a certified master furrier whose family is among the oldest in the Alaska industry. As an outgrowth of the Interior Economic Development Conference in August, Victor is working with the state, the borough, and the Department of Community and Regional Affairs to develop a fur institute. Its goal is to increase the level of awareness for Alaska's superior skins.

"Alaska has traditionally been a major natural fur resource region in the world," said Victor and Dr. Thomas Gaylord in a paper delivered to the conference in August. "But current marketing trends recognize origin as either USA or Canada, the net result being lessened consumer awareness of the quality furs coming from Alaska and therefore lesser consumer demand for specifically Alaska origin fur."

The state's furs compete with Canada, Scandinavia, Russia and Lower 48 in the world market. And increasingly, say Gaylord and Victor, "ranch-

raised fur, foreign trade, technology and government subsidies have provided a competitive advantage that is overwhelming Alaska's fur industry in quantity, variety and even quality of fur." Canadian finished fur garment exports, alone, increased 602 percent from 1980 to year-end 1986 (\$22.8 million to \$160 million).

Ironically, said Victor, a significant portion of the finished fur product "exported" from Canada (and the U.S.) are Alaskan in origin. But the label the consumer sees seldom says so.

Last year's dollar value of raw fur exports from Alaska stood at just \$7 million, said Victor. With 30,000 trapping licenses held statewide in Alaska (many of which are recreational, however), that figure is less than impressive.

"We have a tremendous potential for fur farming," said Victor, "and we're working with trappers to be able to develop that." Already, he said, wild stocks in Alaska have been exported to other countries as breeding stock for successful ranching industries. Kuskokwim mink (named for the obvious Alaska region from which they come), for example, is renowned in the industry for its quality. Ranching allows manufacturers the choice of a more uniform finished garment, since animals are harvested in their prime under controlled conditions. And ranching operations can offer a higher volume of raw pelts to manufacturers.

"Canada has more than 700 mink farms and 550 fox farms that together produced half of the \$91.1 million worth of raw pelts in 1985," said Victor and Gaylord. Less than 8,000 ranchers (versus 80,000 Canadian trappers) produced half the pelts that year.

Potential is there, too, said Victor, for Alaska to move more competi-

See FUR, Page 8

Continued from Page 7

tively into the garment manufacturing industry, but mechanization trends in the industry mean that Alaska's looking at tough competition. "Manufacturing will come over time," said Victor, "and our biggest need right now is better marketing through coordination."

The institute that's in its fledgling stages is patterned after the Alaska Seafood Marketing Institute model of cooperative industry-government product awareness through media, labeling, trade shows and seminars, and public relations.

Victor and Gaylord think the time is right to turn around the industry. Job losses from nil revenue declines have increased government and Native corporation sympathies for diversification; the Interior's well-suited to raise furbearers year-round; and there is opportunity to develop more exotic breeds such as sable and lynx for an exclusive market niche.

Employment opportunities also are good for tanneries, design houses, and manufacturers, the two believe. "Finished fur garments enjoy a large edge over skins in profit and lower costs," they said.

"After decades of neglect, the Alaska fur industry is turning into a subsistence activity, whereas around the world has become one of the most highly profitable fashion enterprises," said Victor and Gaylord. In the paper delivered in August, they proposed a series of steps Alaska should take to put more furs on more backs of consumers:

• With the University of Alaska, implement a research program for genetics, disease control, feed and nutrition, as part of the university's plan to develop linkages with developing industries.

• Education and training in ranching techniques, management skills, and marketing strategy. University students would also benefit from cooperative educational programs in the field; and a ranch and natural fur industry association would advance the cause of the industry.

• Development of modern automation capabilities also is seen as a need to allow Alaskans to compete with other countries.

• Foreign trade marketing, favorable export laws, and trade agreements with auction houses in Hong Kong and Frankfurt would help the industry get a toehold in the market.

# I. Introduction and Business Plan Outline

## A. Environment

1. Alaska has traditionally been a major natural (trapped) fur resource region in the world. Alaskan fur is considered some of the finest in the world, but current marketing trends recognize origin as either USA or Canada; the net result being lessened consumer awareness of the quality furs coming from Alaska and therefore lessened consumer demand for specifically Alaska origin fur. Alaska fur has lost its major marketing and sales advantage, that being the Alaskan label.
2. Alaskan fur must compete with Canadian, Scandinavian, Russian, Chinese, and Lower 48 fur in the world market. Increasingly, ranch raised fur, foreign trade, technology and government subsidies (see Exhibit A) have provided a competitive advantage that is subsequently overwhelming Alaska's natural fur industry in quantity, variety and even quality of fur. The chart below depicts the dramatic increase (602%) in finished Canadian garment exports to the USA alone, driven primarily by the rise of the Canadian fur ranching industry and an advantageous labor situation, over the last six years:

---

### Finished Garments Exported to the United States from Canada

<u>Year</u>	<u>Canadian Dollars</u>
1980	\$22.8 million
1981	\$34.2 million
1982	\$45.6 million
1983	\$58.8 million
1984	\$107.1 million
1985	\$133.0 million
1986 (projected)	\$160.0 million

### Exchange Rate (US \$)

<u>Year</u>	<u>Canadian Dollars</u>
1980	1.1731
1981	1.2009
1982	1.2339
1983	1.2288
1984	1.2943
1985	1.3757
1986	1.3753
1987 (January)	1.3603

---

Source: Wallach, V. *Canadian Manufacturers Discuss Price, Delivery and Their Expectations for 1987*. The Business of Fur, 4(8), 1987, p. 32

3. Canada has over 700 mink farms and 550 fox farms which together produced half of the \$91.1 million worth of the raw fur pelts in 1985. This being done by less than 8,000 ranchers compared to 80,000 Canadian trappers. In other words, half the pelts were produced by one tenth the manpower (The Silver Fox Review, 4(1), 1987, p.5).
4. Alaskan wild fur bearing animals have and continue to be boxed trapped to serve as breeding stock for non-Alaskan fur ranches. The genetic traits of Alaska's wild stock and the

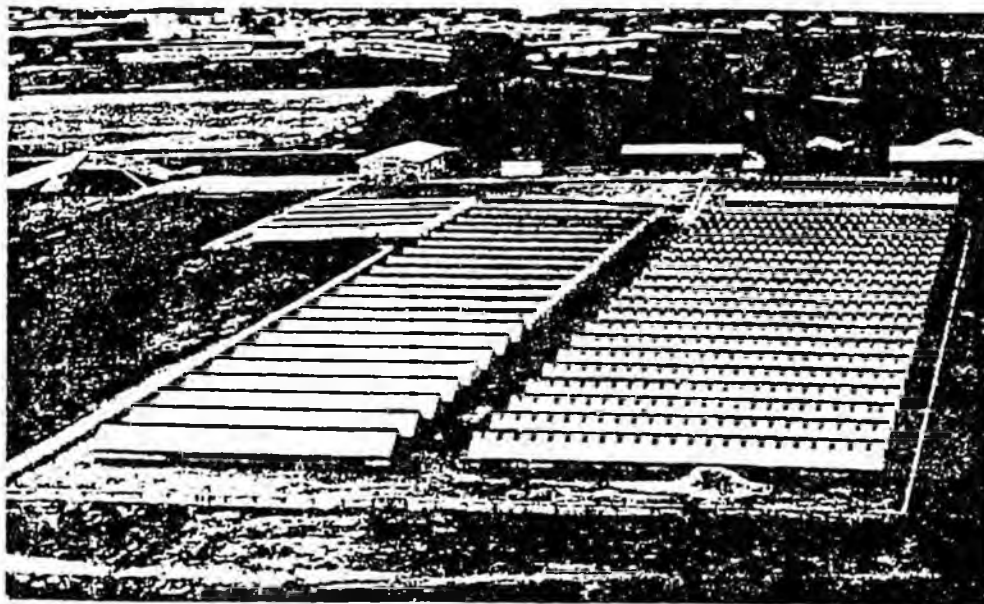
qualities that have made Alaska's furs a sought after and valued product are being exported, and Alaska's long term fur assets are being exploited.

5. Collapse of the oil based economy in Alaska and the sharp reduction in state revenue that resulted has created a vacuum in employment and business opportunities. Depressed rural and urban communities are more eager to explore alternative economic activities.
6. State and local governments and Native corporations appear more committed to stem the flow of investment capital out of Alaska and to use that capital to help diversify Alaska's economy.

## B. Raw Fur

1. Interior Alaska is ideally suited for fur ranching, particularly areas that have access to existing roads or major waterways. The picture below shows the extent of a typical layout for a fur ranch.
2. Providing year round reliable employment, fur ranching cost effectiveness could be enhanced by readily available feed supplements such as fish and feed developed from interior farming projects in Delta and Nenana.
3. The predominant ranched raised furs used in the industry are mink and fox. Alaska has the opportunity to develop the more exotic breeds such as sable and lynx which would give Alaska an exclusive niche in the market from the start.

Moyle Mink Farms  
Heyburn, Idaho



## C. Processing, Design and Manufacturing

1. Fur tanneries, design houses and manufacturing shops would add significantly to the employment level of the fur industry in the state. Finished fur garments enjoy a large edge over skins in profit, lower export costs, etc.

2. The table below on trends in the West German fur industry, is some indication of the increased level of economic activity generated outside the raw fur aspects of the industry that behooves Alaska to move toward fur processing:

	Total Imports in Million DM				
	1982	1983	1984	1985	1986
Raw Furs	673,3	611,8	681,8	727,8	551,1
Dressed Skins & Semi Finished Garments	364,8	334,8	300,7	304,1	321,9
Finished Fur Garments & Hats	819,4	812,2	673,7	486,6	608,5
	1.857,5	1.758,8	1.656,2	1.518,5	1.481,9

	Total Exports in Million DM				
	1982	1983	1984	1985	1986
Raw Furs	46,9	44,0	36,1	41,3	45,9
Dressed Skins & Semi Finished Garments	650,9	613,5	638,2	733,7	603,7
Finished Fur Garments & Hats	285,6	300,8	334,8	355,4	378,8
	983,4	958,3	1.009,1	1.130,4	1.028,4

Source: *International Fur Fair Frankfurt*. *International Fur Fashion Review*, 6(5), 1987.

#### D. Sales and Marketing

1. The future of the the Alaskan fur industry lies with aggressively pursuing international markets.
2. Marketing alliances and hand shaking efforts with government similar to what the Toronto Fur Export Group has devised (see Exhibit B) are essential if Alaska is to break into the market in a meaningful way.

## II. Financing the Fur Industry Outline

### A. Private Sources

1. Venture Capital
2. Native Corporations (Regional and Village)
3. Stock offering

## B. Public Sources

1. State Assistance Grants or Loans (Agricultural?)
2. State Permanent Fund Investments or Loans
3. Local Government Grants or Loans

## III. Technology and Trade Assistance Outline

### A. Animal Research

1. Genetic research for the purposes of improving the fur color variety, strength and longevity as well as the animal growth rate of Alaskan stock is needed to gain a competitive edge. Research would be oriented toward developing and regulating the raising of pure bred and other ranch raised foxes in Alaska and such new types of foxes as may from time to time become eligible for registration. This could be accomplished by an industry tax earmarked for research programs at the University of Alaska. The University has made it clear through its Six-Year Plan (Goal 2.3) that it intends to develop linkages to assist developing state industries.
2. Disease control research is needed to protect ranch stock in close proximity from devastating consequences. These include primarily tularemia, hydatid disease, mange, giardiasis, distemper, and rabies.
3. Feed and nutritional research is needed to enable the use of available, local food sources such as fish and interior farming products from the Delta and Nenana regions.

### B. Education and Training

1. Development of fur ranching techniques, management skills, and marketing strategy educational programs by the University of Alaska in accordance with its Six-Year Plan (Goal 2.3).
2. Student assistance or cooperative educational programs, such as with the New York Fashion Institute of Technology's Fur Design and Marketing Department offerings.
3. Development of a ranch and natural fur industry association similar in scope and function to the Canadian Fox Breeders Association (CFBA). The CFBA finances its operations through a commission of 1.5% on all ranch fox pelts sold through auction houses who have marketing agreements with CFBA. For the benefit of the membership these funds are used for the marketing and promotion of the "Canada Select Fox" label, rancher education, education grants to affiliated provincial fox/fur breeder associations, support research projects, publish the CFBA newsletter, compile statistics, maintain National head office and other related activities (Role and Function, Canada Fox Breeders Assoc., 1986, pp. 1-2).

### C. Mechanization and Computerization

1. Development of systems and equipment that permit the automation of various stages of fur production is essential if efficient, cost effective ranching and manufacturing is to provide a cost competitive product on the world market. Taran, Canada's largest fur manufacturer, has already operational several systems in various steps in the fur processing procedure in its 100,000 square foot Montreal plant. As Taran's owner stated:

We've been working with one of the universities for 18 months on this project. Skin matching and grading is a critical operation and there's always a shortage of competent help. The system we've developed will not only do the job as accurately, but will also eliminate human error that often comes from fatigue. The computer never gets tired. *Taran Nearing Fush-Button Operation. Fur World, June 3, 1985.*

#### D. Trade

1. State of Alaska marketing institute trade assistance and foreign trade agreements particularly with fur auction houses and processing centers such as Hong Kong and Frankfurt.
2. Arrangement of favorable federal export laws and tax structures that facilitate development of a new industry and streamlined shipping and sales channels.

### IV. Summary Outline

- Alaska could become a major center for the North American fur industry within a decade provided steps are taken to build reliable supplies and large numbers of quality furs.
- Being competitive on the world market today and even more in the future will have as a prerequisite, genetic engineering for controlled stock improvement efforts, mechanization for reduced processing costs, and computerization to a degree that allows instantaneous responses to world market conditions. Fur ranching, as a supplement to trapping, is essential to prevent a further erosion of Alaska's position in the fur industry. Gaming out scenarios without a viable fur ranching factor in the state has Alaska virtually losing all its market share within a generation.
- Even with an infusion of substantial effort on the part of private entrepreneurs, state government, the University, and Native Corporations it will be difficult for the Alaskan fur industry to attain the market position it once held. After decades of neglect, the Alaskan fur industry is turning into a subsistence activity whereas around the world has become one of the most highly profitable fashion enterprises.

Let's turn it around.

**EXHIBIT A**  
**Government Support**



**V/O SOJUZPUSHNINA**

**USSR**

**MOSCOW-LENINGRAD**

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Over 120 Canadian manufacturers will show their newest fashion collections at the Canadian International Fur Fair Montréal, from May 4 to 7, 1988, in Place Bonaventure.

Two gala fur fashion shows on the evening of Wednesday, May 4, in Hotel Bonaventure will highlight the fine fashion furs for which the Canadian fur manufacturing industry is known.

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Montréal, Canada  
H5A 1H1  
Tel. (514) 871-9214  
Telex 055 62171 Code 488



For information on the  
Canadian Fashion Show, contact  
Mr. André Daoust  
Canadian Fur Trade Development  
Institute Inc.  
1435 St-Alexandre, Suite 1265  
Montreal, Canada H3A 2G4  
(514) 288-6609

**EXHIBIT B**  
**Industry Alliances**

## THE HISTORY

When V/O SOJUZPUSHNINA was born in 1931, no one could have known how much the organization would have grown just fifty years later.

In the early days V/O SOJUZPUSHNINA was mainly concerned with fur exports, working with some six hundred companies in nineteen countries.

Today the organization is involved with both importing and exporting, in natural and synthetic leather and many other allied products as well as their original responsibility, furs. As the activities have grown so has the number of customers, now more than two thousand companies in sixty countries.

V/O SOJUZPUSHNINA is now not only one of the oldest Soviet foreign trade organizations but one of the most international with business contacts from Japan to the Argentine.

The Soviet Union has the largest production of furs in the world, and certainly the most breathta-

king selection. These are gathered in from all over the USSR, with goods from over 6.5 thousand Soviet enterprises.

Fur auctions are held three times a year in Leningrad as well as in London and Leipzig and there are warehouses in the USSR, London, Stockholm and West Berlin.

The major part of the fur production is sold at auctions, with 70-80% offered at the International Fur Auctions in Leningrad.

The original auctions concentrated on wild furs since there were at that time no fur farms in the USSR. Today the situation is quite different.

Wild furs are, of course, still available, with a selection that includes red and white fox, sable, squirrel, wolverene, wolf marten, fitch, charsa, raccoon

and marmot. It is in the ranches that there has been enormous growth, with a million mink and thousands of blue and silver fox offered in January from the Soviet fur farms, the same assortment though in smaller quantity put up for sale in July. There are also in the dressed skin section, hair-seal, white-coat and fur seal, squirrel plates and sacs. Considerable quantities of karakul and broadtail, including a selection of dressed skins, are presented at every auction.

Production of ranches skins generally has reached a total of 16 million (including only mink, foxes, nutria and sable). Nevertheless the growing demand of the domestic market means that only about twelve per cent of the total Soviet fur production including karakul, will be available to the

export trade.

The most valuable furs, sable and lynx, are sold at the Palace of Furs in Leningrad, with extraordinarily high prices offered for these most beautiful of furs. The export of sable is restricted to not more than 100-120 thousand pelts a year.

All sable comes from the Soviet Union and is sold only through V/O SOJUZPUSHNINA, under the trademark SOBOL, a label that can only be given to genuine Russian sable.

An addition to the catalogue in recent years has been a group of furs from ten countries outside the USSR. Sold on commission, these include wild furs from Mongolia and North Korea, nutria from Poland, mink and blue fox from Finland, Afghan karakul and Norwegian seal.

V/O SOJUZPUSHNINA, are

justifiably proud part in the trade. They are the largest fur suppliers they strive also

most responsible for the International Fur Auctions, they are in the world of fur organization, part of the conservation area of the creation of a combat anti-fur party.

Over the years V/O SOJUZPUSHNINA has managed to receive many Soviet furs regulated at the International Fur Show held every

In 1980 V/O SOJUZPUSHNINA was awarded a national prize, the G. Their part in the economic and international fur trade in the next fifty years. SOJUZPUSHNINA is this international fur trade their constant goal.



about 2,000 garments a week and does an annual volume in the neighborhood of \$100 million (Canadian).

"What we're aiming for," comments Taran, "is the elimination of all contract labor. We want to do all the work inside with a smaller, elite group. That's how we're going to stay alive in view of what's coming out of the Orient. We're looking to increase production and efficiency and eliminate as much human error as possible. We believe we can produce a better garment at a lower price by modernizing."

#### Multimillion Dollar Grant

The investment is substantial, but the company is working with the Canadian Industrial Renewal Board, which makes grants to help industries grow. Says Taran, "We have received the largest such grant of any industry in Canada." He wouldn't say how much, but conceded it is a multimillion-dollar figure.

However, he adds, "we won't touch any new machine or system unless it offers a maximum two-year payback on investment." One system he's proud of, because it was developed largely in-house, is the skin-wetting device that will interface with the stretching and drying oper-



The average age of the production force is under 25.

machines can be supervised by one person. They are priced around \$90,000 each.

In addition, the company is looking into laser trimming of garments, utilizing equipment now available for cloth apparel, but with modifications for fur. Says Taran, "we're working with a major company on this and have it working on some

jute interfacings. Also, those that will sew in linings—all around—with a hand-finished effect.

Although the push-button factory is not quite at hand, it is much less inconceivable to the Taran family, including patriarch Benjamin, the founder. His sons, vice-presidents Charles and Albert, are even more sanguine. Their sister, Esther Brody, also is involved as chief skin buyer, assisted by her son, George. Robert is Albert's son. Charles' son, David, is director of finance and promotion.

"As we see it," explains Albert Taran, "we're no longer competing with the Far East. Now they'll be competing with us."



Taran's 100,000-square-foot plant turns out 2,000 garments a week.

ation now being developed, the entire procedure chopping substantial time off the conventional methods and performed under automatically-controlled temperature-humidity conditions.

#### Big Time-Saver

Pointing to the automated drying system through which the nailed-out garment sections on boards travel via monorail in only two hours he notes, "that saves a full day." The next step, removing the staples, is still done manually, but not for long. "We're perfecting a staple-removing machine, on a conveyor system, which will require two people instead of 14 at present and will be much faster—two to three minutes per board instead of 10. This will be in place by next year."

The company also has plans for the computerized skin slicing-sewing machine developed by Platt and demonstrated at recent fairs in Frankfurt and Montreal. "We have an option on 18 of these machines," notes the production manager. They are capable of letting out about five skins an hour and four such

furs, but not all. We're also working on closing by a robotic sewing machine, as is already done on textile-apparel. It's just a matter of adaptation."

Another process under development is blocking with a hydraulic-pneumatic system. Almost ready are machines that will prepare collars, as well as flannel and



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SUPPLY SIDE

# Taran Nearing Push-Button Operation

**M**ONTREAL — For years, as textile-apparel production has joined other industries moving into the age of computerization, fur manufacturers have watched longingly but were stymied because of the characteristics of their basic material. While most appear resolved the world's oldest handcraft is likely to remain just that, at least one producer believes it is well on its way toward the "push-button shop" of the future.

Taran Furs, the largest manufacturer in North America, also is one of the most innovative. The company has come up with a dozen or more devices and systems that represent major breakthroughs in the automation of key stages of production. Several of these are on stream now; others are in the final stages of development and are expected to be in use within two years.

Among them:

- A computerized pelt grading and matching system that will even sort as to color, height of hair and density of underfur, at the same time coding the leather side as to where the skin falls in the garment pattern.

- A conveyor belt operation that wets the leather side of skins and requires 75% less time and labor than the conventional brush-and-pail method.

- A pneumatic-hydraulic device that stretches and delivers to the cutting machine in seven minutes skins that have been dried using a wind-tunnel technique.

- An automated drying system that handles entire boards fed by monorail.

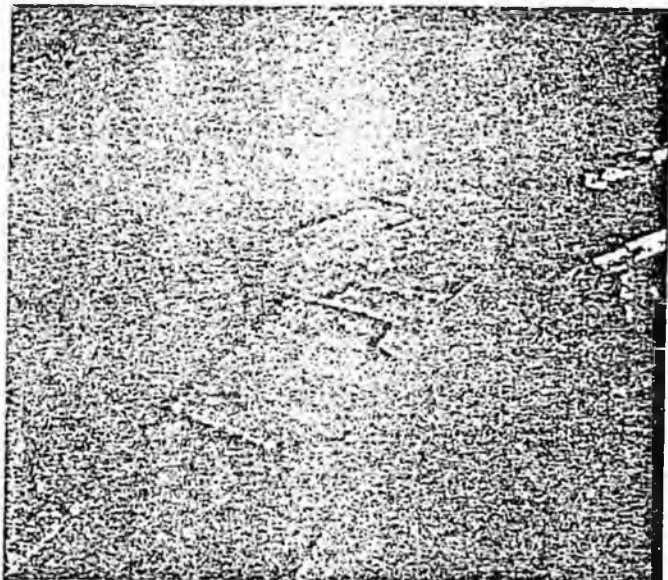
- A computerized grading and marking machine that also indicates kyles.

Most, explains Robert Taran, "are machines or systems that never existed. We developed the ideas and called in the technical people to work them out." At 23, he is the youngest of three generations of Tarans active in the family-owned company, now over half a century old. He is also general manager in charge of production.

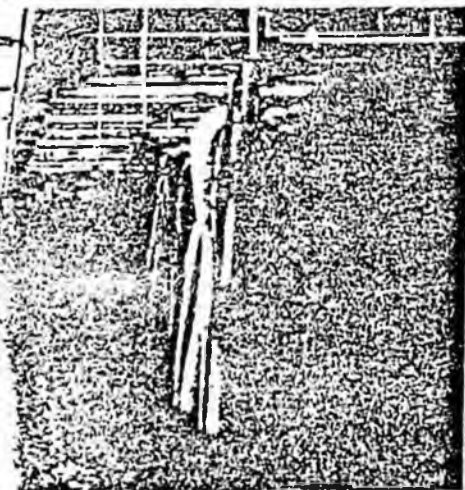
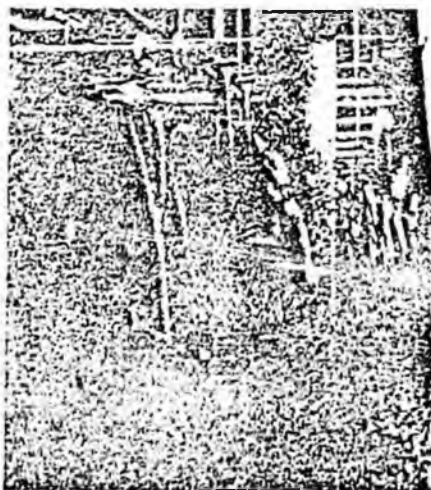
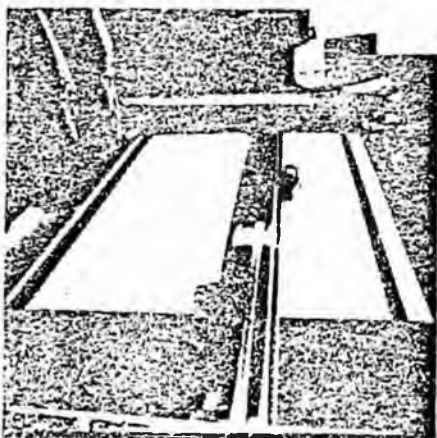
If he sounds a bit young to head production for a company the size of Taran, it should also be pointed out he's older than many of his workers. The average age of the operators is around 23, but the floorworkers range from 16 to 19. "Outside of some veteran cutters, trimmers and closers, the bulk of our production force averages under 25," he notes.

Some of the innovations have been relatively inexpensive, requiring simple mechanization of manual procedures. Others, like the pelt grading and matching scanner may take years between concep-

tion and execution. "We've been working with one of the universities for 18 months on this project. Skin matching and grading is a critical operation and there's always a shortage of competent help," notes the young executive. "The system we've developed will not do the job as accurately, but will also eliminate human error



Operator programming the computerized pattern grading and marking system.



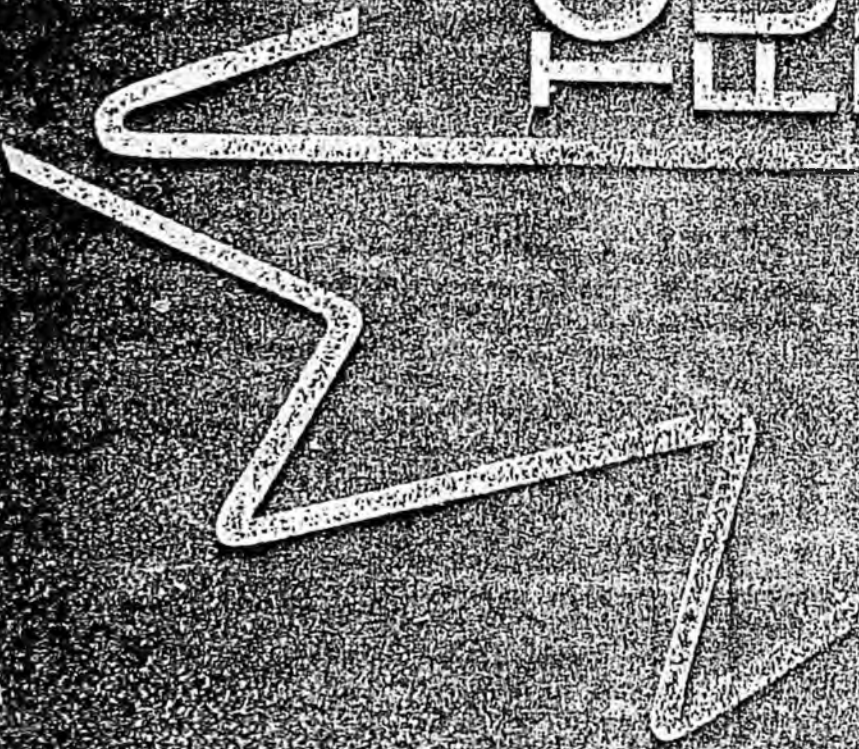
that often comes from fatigue. The computer never gets tired," he comments.

The system is expected to be on stream within two years at a cost of \$1.5 million (Canadian). But the company also expects to recoup the investment in 21 months in terms of savings through greater efficiency, "not to mention what it will mean in terms of quality control," he adds. One such unit, he points out, will be capable of matching out from 2,800 to 3,000 skins in seven hours, or about 10% more than is now done by seven workers in that period. Furthermore, the matched skins will be placed on wire hangers by robotic arms, which also will hang them on racks.

### Subsidies to Train Workers

Taran declines to identify the educational institutions or equipment manufacturers with which the firm is working. He does acknowledge, however, cooperation from various governmental agencies in the form of either outright grants for systems development or wage subsidies for training new workers.

The company employs over 300 workers in its 100,000-square-foot plant. It also contracts out some work locally and operates a factory in Korea, which produces some more labor-intensive items like fur-leather combinations. Overall, it turns out



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MonzievaIRD, Ltd., is the name of the Mundells' new venture. Offices are at Ochertyre, by Crieff, Perthshire PH7 4JR.

The telephone contact is 0764-4055 and the fax contact is 0764-3894. ■

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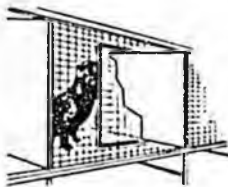


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★ 1986 Show Record ★

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HB

395

# HOUSE COMMITTEE REPORT

Date referred: 1/25/88

FURTHER REFERRALS: Finance

DATE: 4-25-88

The Resources Committee has considered HB 395

"An Act relating to collection permits."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis *2 ea.*

**SIGNING DO PASS:**

\_\_\_\_\_  
*Tom Pearce*  
 \_\_\_\_\_  
*Dick Shell*  
 \_\_\_\_\_  
*Heinrich Springer*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Adelheid Herrman Do Not Pass*  
 \_\_\_\_\_  
*John R. ...*  
 \_\_\_\_\_  
*Jay Hoff No Rec*  
 \_\_\_\_\_  
*Jim ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Jim G. T.*  
 \_\_\_\_\_  
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88  
Title: An Act relating to collec-  
tion permits.  
Sponsor: Miller  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: State Health Services  
Components: Lab Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 395 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090  
Division: Public Health Date: March 25, 1988

Approved by Commissioner: Mike M. Meenan *Mike M. Meenan* Date: March 29, 1988  
Agency: Department of Health & Social Services

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Fish and Game  
 Title: An Act Relating to Collection Permits BRU: Game  
 Sponsor: Representative Miller Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		0	0	0	0	0
CONTRACTUAL		0	0	0	0	0
SUPPLIES		0	0	0	0	0
EQUIPMENT		0	0	0	0	0
LAND & STRUCTURES		0	0	0	0	0
GRANTS, CLAIMS		0	0	0	0	0
MISCELLANEOUS		0	0	0	0	0
TOTAL OPERATING		0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Issuance of the additional permits necessary if this bill is passed will not significantly affect costs to the Division. Because there is a small fee for this service, some limited revenues to the state may result.

Prepared by: Donald E. McKnight Phone: 465-4190  
 Division: Game Date: 3/24/88

Approved by Commissioner: *Donald L. Wike* Date: 3/25/88  
 Agency: \_\_\_\_\_

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

POSITION PAPER  
HOUSE BILL NO. 395

For an Act entitled: "An Act relating to collection permits."

This bill repeals and reenacts AS 16.05.340(b). It appears to broaden the purposes for which the Department of Fish and Game can issue permits for the taking of wild fur animals for breeding purposes. Existing language permits collecting wild fur bearing animals for the purpose of "improving the genetic stock of fur farm animals". The proposed substitute would allow permits to be issued for taking wild fur animals in order to "establish [and] diversify through cross breeding" the genetic stock of fur farm animals.

The Department of Health and Social Services has reservations about the existing legislation and about any possible expansion of the circumstances under which wild mammals can be taken and kept for breeding purposes. Rabies is commonly found in commercially valuable wild fur animals in certain areas of Alaska. Wild stock can spread disease into the relatively domesticated captive stock and greatly increase the potential for human exposure of handlers of both live animals and animal carcasses. In addition, the possibility of escape adds to the likelihood of introduction of rabies into geographic areas not now affected.

To the extent the proposed language would increase the numbers of wild fur animals taken for breeding purpose or expand the geographic areas into which wild fur animals might be introduced, the department is opposed to this legislation unless stringent and enforceable regulations are adopted to limit the potential problems outlined above.

Proposed by: Elizabeth Ward  
Elizabeth Ward  
Director  
Division of Public Health

Date: March 25, 1968

Approved: Myra M. Munson  
Myra M. Munson  
Commissioner  
Department of Health  
Social Services

Date: March 28, 1968

02/15/88

Rep. Sam Cotten  
House Of Representatives  
P.O. Box V  
Juneau, Alaska 99811

Dear Rep. Cotten,

Rep. Cotten, Allow me to introduce myself. My Name is Richard J. Cards and I am President of the Alaskan Fur Ranchers Assn. (AFRA).

In 1981 there were only four fur farms in the state of Alaska and the industry was at a standstill. The fur ranchers knew the potential for a complete fur industry was enormous. We also knew it would be difficult and we needed to be organized to move into the world as a worthy competitor. AFRA was formed in 1982 to promote fur farming in the state. We grew slowly over the years that followed, but grow we did. from four farms sitting around a kitchen table to thirty-three farms spread over the entire state from Eagle to Kenai to Bethel to Kotzebue to Fairbanks and all points in between. Growth has been slow and steady. The slow pace has been due to the fact that this is a hard and expensive business to get started. The cost to get started is a total commitment of time and energy and every dollar you ever saved. We are committed to rebuild the fur industry in Alaska. The economic value will reach far into the future long after the oil money is gone.

I'm enclosing a pamphlet printed by the Interior Economic Development Assn. Please take time from your busy schedule to read the material. The conference pointed out many important facts. Among them were...

The Alaskan Fur Ranchers are not alone in the development of the fur industry in Alaska. We have been working for the industry a little longer...

Alaska is years behind the rest of the world in the development of the fur industry even though we are in the best geographic area possible.

We need your help! We need you to stand with us in our time of need. The individuals involved in the fur industry and the state needs to unite.

There are several other interesting facts I'm sure you will find as you read the pamphlet, i.e., the enormous amount of money involved.

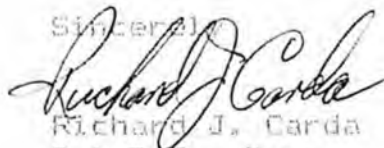
Sam, Coming up before you soon are two house bills. One bill is for protection. This bill would make it a felony for anyone to enter a fur farm and harass, steal or set free any of the live stock. Hopefully this will make those people think twice before entering the farm. The second is a bill that would allow us (farmers) to go into the wild and collect wild stock to develop completely Alaskan fur, to increase our knowledge of other fur bearing animals and in so doing help us to compete today and tomorrow in the world market place.

At the moment there are an estimated 20,000 trappers in the state of Alaska. Each trapper buys a \$5.00 trapping license and is allowed to KILL as many animals as he can catch within the generous limits set down by Fish & Game. I could do the same with a license but I am a farmer not a trapper. Our bill would allow us to hire an Alaskan trapper to bring them back alive and by doing so the trapper would benefit with a better price, the fur farmer would benefit with new animals to work with and the fur industry would benefit with growth. To make it even better there is no added pressure put on the wild stock. Regardless of the number of wild animals requested by the farmer would be limited by the legal limit of the trappers that are hired.

We are interested in developing an "all-Alaskan Ranch Mink from wild stock," "Alaskan Brown" by Alaskan farmers. We are also interested in studying the Alaskan Sable (marten) Very little is known about these animals. We need your help to begin.

Sam, I speak for everyone involved when I say, "PLEASE Sam" vote yes on HB393 and HB395, we need your help to move Alaska forward.

Sincerely,



Richard J. Carda  
R & D Fur Farm  
Box 4553  
Eielson, Alaska 99702

# Alaska State Legislature

REPRESENTATIVE  
MIKE W. MILLER  
P.O. Box 55094  
North Pole, Alaska 99705  
(907) 488-2687

While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4976

District 18  
North Pole  
Badger Road  
Eielson  
Moose Creek  
Salcha

## House of Representatives

November 24, 1987

Mr. Ed Hein  
Legislative Affairs Agency  
Division of Legal Services  
P.O. Box Y  
Juneau, AK. 99811

Dear Ed:

I would like to request a legal opinion on the wording of AS 16.05.340(b) and its derivative administrative code, 5 AAC 92.043. In particular, I am interested in the amount of statutory discretion granted to the Commissioner of Fish and Game with regard to the issuance of permits allowing the collection of fur bearers for fur farming purposes.

The two sentences contained in AS 16.05.340(b) that lead to confusion are:

"The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose."  
and,

"In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals."

Use of the words "shall" and "may", within the same subsection, regarding the collection of fur animals, has clouded exactly what level of discretion the commissioner actually has with regards to the issuance of permits to capture fur bearers for fur farming.

The above mentioned statute is cited as authority for 5 AAC 92.043 which reads as follows:

"The department may issue a permit for the capture, but not export, of an indigenous fur bearer for fur farming. The department may limit the number, sex, and species of the animal to be taken, and the area from which the animal may be taken."

The Department of Fish and Game has apparently interpreted AS 16.05.340(b) as granting the Commissioner total discretion as to whether permits will or will not be issued. In my opinion, 5 AAC 92.043. is in conflict with the rather ambiguous wording of this statute.

Ed Hein  
Page 2  
11/24/87

Ed, I do intend to introduce legislation amending AS 16.05.340(b) to implement the intent of work draft 5-1415A, dated 11/4/87. However, I am beginning to think this subsection may warrant additional changes to address the question outlined in this letter.

If you have any question regarding this request, please contact my office at 488-0862.

Sincerely,

Mike Miller  
Representative  
District 18

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

HB 315  
3/21  
POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

M E M O R A N D U M

December 21, 1987

SUBJECT: Collection permits for fur animals  
(W.O. #15-1467)

TO: Representative Mike W. Miller

FROM: Edward H. Hein *EHS*  
Legislative Counsel

You have asked for an opinion concerning how much discretion the Commissioner of Fish and Game has under AS 16.05.340(b) to issue or refuse to issue a permit for collecting fur animals for fur farming purposes. You also ask whether the provisions of 5AAC 92.043 conflict with the language of the statute.

AS 16.05.340(b) reads as follows:

(b) The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose. The commissioner also may issue a permit for the collection of bivalve spat for use in connection with an aquatic farm. In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals. Permits issued under this subsection shall be in accordance with current sustained yield management practices for the species of wild game for which the permit is requested. The annual permit fee for an Alaska resident to collect wild fur animals for fur farming purposes is the same as the fee for resident trappers.

The first sentence of this subsection gives the commissioner discretion to issue free permits for collecting fur animals for a scientific, propagative, or educational purpose. This discretion is broad because of the "may" language and the

phrase "subject to limitations and provisions that are appropriate."

By contrast, the third sentence says that the commissioner "shall issue permits for collecting "wild" fur animals for the limited purpose of "improving the genetic stock of fur farm animals." This permit has an annual fee of \$10.00 ("the same as the fee for resident trappers"). Although issuance of this permit seemingly is mandatory because "shall" is used, the mandate is qualified by the fourth sentence, which requires that any permit under this subsection must be issued in accordance with sustained yield management practices. This is not only a statutory requirement; it is also required under Art. VIII, sec. 4, of the Alaska Constitution. Presumably, a permit must be issued to anyone who pays the \$10.00 fee, unless issuance would conflict with sustained yield management practices.

The provisions of 5 AAC 92.043 do not appear to conflict with the statute. The regulation reads as follows:

5 AAC 92.043. PERMIT FOR CAPTURING WILD FUR BEARERS FOR FUR FARMING. The department may issue a permit for the capture, but not export, of an indigenous fur bearer for fur farming. The department may limit the number, sex, and species of the animal to be taken, and the area from which the animal may be taken.

Use of "may" in the first sentence of the regulation is appropriate, given that sustained yield management practices may require not issuing a particular permit at all. The limitations allowed under the second sentence are legitimate resource management tools needed in order to ensure sustained yield management.

Admittedly, the intent of AS 16.05.340(b) is not clear. The provisions relating to fur animal permits in this subsection have been amended several times over the years, most recently in 1983. Despite this, or perhaps because of it, the language is badly drafted. It is apparent to me, however, that the legislature intended to have two different types of permits relating to collecting fur animals.

The first type of permit is free and, insofar as it relates to fur farming, is limited to "propagative" purposes. It is not clear what "propagative" includes, but in the context of the first sentence, it is reasonable to conclude the

Representative Mike W. Miller  
Page 3  
December 21, 1987

propagation must be for research, education, science, or other probably nonprofic or noncommercial purpose. This interpretation is supported by the fact that no mention is made of fur farming, but "fur farm" is used in the third sentence. Furthermore, it could be argued that fur animals collected under this permit must be animals that are already in captivity, as opposed to "wild" fur animals that are mentioned in the third sentence. But this could just as easily be an example of poor drafting.

The second type of fur animal permit costs the same as the resident trapper permit and is to be issued for collecting "wild" fur animals for the limited purpose of "improving the genetic stock of fur farm animals." Given that this sentence used to say that the permit was to be issued "for collecting wild fur animals for fur farming," it is reasonable to conclude that the legislature intended to narrow the scope of the permit. I am not certain what "improving the genetic stock" means, unless it means cross-breeding or mating wild fur animals with fur farm animals that are already in captivity. This suggests that this second type of permit is to be issued to persons who already have an existing fur farm operation or, perhaps, a sort of stud farm for such animals. And, in fact, it is my understanding that the department construes the statute this way and does not issue collection permits for persons who want to start a fur farm.

In light of your concern over the may/shall question, I recommend that you consider redrafting the third and fourth sentences of this subsection. The new language should make clear, if this is your intent, that the commissioner must issue a collection permit to anyone who pays the fee, unless to do so would conflict with sustained yield management practices. You may also wish to further clarify the purposes for which wild fur animals can be collected under this permit. If you want people to be able to use this permit to take wild fur animals in order to start up a fur farm, we should say so plainly and clearly. I will be happy to work with you or your staff to effect the necessary changes.

EHH:gc

WKG1:008

# Alaska State Legislature

REPRESENTATIVE  
MIKE W MILLER  
PO Box 55094  
North Pole Alaska 99705  
(907) 488 2687

District 18  
North Pole  
Badger Road  
Eelson  
Moose Creek  
Saigha

Address Bureau  
PO Box 12  
Juneau Alaska 99811  
(907) 465 4976

## House of Representatives

### MEMORANDUM

TO: Representative Sam Cotten  
Co-Chair, House Resources Committee

FROM: Representative Mike Miller *Mike Miller*

RE: Hearing request for HB 393, an act relating to  
unauthorized release of livestock or farm animals and,  
HB 395, an act relating to collection permits

DATE: 3/21/88

-----

These two bills were introduced as a package at the request of the Alaska Fur Ranchers Association.

HB 393 would add the unauthorized release of livestock or farm animals, including fur farm animals, to the list of actions that constitute the crime of criminal mischief in the third degree. Individuals who own farm stock have generally made a considerable investment which can be lost if the animals are set free. A fine of up to \$5000 could be imposed against individuals convicted under the new wording of HB 393.

HB 395 restructures and adds to the existing statutory language governing the issuance of permits to collect animals from the wild. The two major additions specify that fur animals may be taken from the wild to diversify existing farm stock through cross breeding, and to establish the initial breeding stock of a new farm. I have attached a highlighted copy of this bill for your reference.

I have also attached a packet of information outlining some of the gains that other countries have made in the commercial fur industry. This information was forwarded to me by Mr. Richard Carda, President of the Alaska Fur Ranchers Association.

I would like to request that these two bills be considered for scheduling before the House Resources Committee. I would also like to request that Mr. Carda be allowed to testify via teleconference when this hearing takes place.

Attachments

- MAJOR WORDING ADDITIONS TO THE EXISTING  
STATUTES.

LANGUAGE IDENTICAL OR SUBSTANTIALLY  
THE SAME AS EXISTING STATUTES

1 IN THE HOUSE

BY MILLER

2

HOUSE BILL NO. 395

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to collection permits."

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

8 \* Section 1. AS 16.05.340(b) is repealed and reenacted to read:

9 (b) The commissioner of fish and game may issue without cost a  
10 permit to collect fish and game, including fur animals, subject to  
11 limitations and provisions that are appropriate, for a scientific or  
12 educational purpose. The commissioner also may issue a permit for the  
13 collection of bivalve spat for use in connection with an aquatic farm.  
14 In addition, the commissioner shall issue to a person who pays the fee  
15 a permit for collecting wild fur animals to establish, diversify  
16 through cross-breeding, or improve the genetic stock of fur farm  
17 animals. The annual permit fee for an Alaska resident to collect wild  
18 fur animals for fur farming purposes is the same as the fee for resi-  
19 dent trappers. Permits issued under this subsection shall be issued,  
20 denied, or restricted in accordance with current sustained yield  
21 management practices for the species of wild game for which the permit  
22 is requested.

03/10/88

Rep. Mike Miller  
House Of Representatives  
P.O. Box 2  
Juneau, Alaska 99511

MAR 07 1988

Dear Rep. Miller,

Rep. Miller, Allow me to introduce myself. My name is Richard J. Garcia and I am President of the Alaskan Fur Ranchers Assn. (AFRA).

In 1951 there were only four fur farms in the state of Alaska and the industry was at a standstill. The fur ranchers knew the potential for a complete fur industry was enormous. We also knew it would be difficult and we needed to be organized to move into the world as a worthy competitor. AFRA was formed in 1982 to promote fur farming in the state. We grew slowly over the years that followed, but grow we did, from four farms sitting around a kitchen table to thirty-three farms spread over the entire state from Eagle to Kenai to Bethel to Kotzebue Fairbanks and all points in between. Growth has been slow but steady. The slow pace has been due to the fact that this is a hard and expensive business to get started. The cost to get started is a total commitment of time and energy and every dollar you ever saved. We are committed to rebuild the fur industry in Alaska. The economic value will reach far into the future long after the oil money is gone.

I'm enclosing a pamphlet printed by the Interior Economic Development Assn. Please take time from your busy schedule to read the material. The conference pointed out many important facts. Among them were...

The Alaskan Fur Ranchers are not alone in the development of the fur industry in Alaska. We have been working for the industry a little longer...

Alaska is years behind the rest of the world in the development of the fur industry even though we are in the best geographic area possible.

We need your help! We need you to stand with us in our time of need. The individuals involved in the fur industry and the state needs to unite.

There are several other interesting facts. If you don't mind as you read the pamphlet, i.e., the economic impact of money involved.

# Development of a Competitive Alaskan Fur Industry

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*A workshop brief  
prepared by:*

*Gerald Victor  
Certified Master Furrier*

*and*

*Thomas Gaylord, Ph.D.*

**Interior Economic Development Conference**

August 1-2, 1987  
Fairbanks, Alaska  
Alaskaland Civic Auditorium

# Fairbanksans seek to develop fur institute



The glistening fur coats that are created by Alaska pelts are sold the world over, but few of the purchasers of this ultimate in luxury know from whence their coat came. This warm wrap is natural Alaska sable, which retails on the market for \$26,000 to \$145,000. PHOTO COURTESY GERALD VICTOR OF FURS, FAIRBANKS

By Sally J. Suddock

**M**ention the word "Fairbanks" to most folks and more often than not, the association "cold" will spring (winter?) to mind. Mention the word "cold," and the gentler sex might immediately think of a warm, flowing fur coat as an antidote to the long, dark winter.

It should come as no surprise, then, that Fairbanks is perfectly suited—geographically and by image—to make its mark in boutiques and salons the world over as a supplier of the raw materials for this luxury-item market.

It might come as a surprise, however, that currently this is not the case.

A group of Fairbanks fur-industry leaders are out to change that. Despite a traditional abundance of fur-bearing animals statewide, Alaska is caught in a trap of no identity and no aggressive marketing, says Gerald Victor, a certified master furrier whose family is among the oldest in the Alaska industry. As an outgrowth of the Interior Economic Development Conference in August, Victor is working with the state, the borough, and the Department of Community and Regional Affairs to develop a fur institute. Its goal is to increase the level of awareness for Alaska's superior skins.

"Alaska has traditionally been a major natural fur resource region in the world," said Victor and Dr. Thomas Gaylord in a paper delivered to the conference in August. "But current marketing trends recognize origin as either USA or Canada, the net result being lessened consumer awareness of the quality furs coming from Alaska and therefore lesser consumer demand for specifically Alaska origin fur."

The state's furs compete with Canada, Scandinavia, Russia and Lower 48 in the world market. And increasingly, say Gaylord and Victor, "ranch

raised fur, foreign trade, technology and government subsidies have provided a competitive advantage that is overwhelming Alaska's fur industry in quantity, variety and even quality of fur." Canadian finished fur garment exports, alone, increased 602 percent from 1980 to year-end 1986 (\$22.8 million to \$160 million).

Ironically, said Victor, a significant portion of the finished fur product "exported" from Canada (and the U.S.) are Alaskan in origin. But the label the consumer sees seldom says so.

Last year's dollar value of raw fur exports from Alaska stood at just \$7 million, said Victor. With 30,000 trapping licenses held statewide in Alaska (many of which are recreational, however), that figure is less than impressive.

"We have a tremendous potential for fur farming," said Victor, "and we're working with trappers to be able to develop that." Already, he said, wild stocks in Alaska have been exported to other countries as breeding stock for successful ranching industries. Kuskokwim mink (named for the obvious Alaska region from which they come), for example, is renowned in the industry for its quality. Ranching allows manufacturers the choice of a more uniform finished garment, since animals are harvested in their prime under controlled conditions. And ranching operations can offer a higher volume of raw pelts to manufacturers.

"Canada has more than 700 mink farms and 550 fox farms that together produced half of the \$91.1 million worth of raw pelts in 1985," said Victor and Gaylord. Less than 8,000 ranchers (versus 80,000 Canadian trappers) produced half the pelts that year.

Potential is there, too, said Victor, for Alaska to move more competi-

See FUR, Page 8

tively into the garment manufacturing industry, but mechanization trends in the industry mean that Alaska's looking at tough competition. "Manufacturing will come over time," said Victor, "and our biggest need right now is better marketing through coordination."

The institute that's in its fledgling stages is patterned after the Alaska Seafood Marketing Institute model of cooperative industry-government product awareness through media, labeling, trade shows and seminars, and public relations.

Victor and Gaylord think the time is right to turn around the industry. Job losses from oil revenue declines have increased government and Native corporation sympathies for diversification; the Interior's well-audited to raise furbearers year-round; and there is opportunity to develop more exotic breeds such as sable and lynx for an exclusive market niche.

Employment opportunities also are good for tanneries, design houses, and manufacturers, the two believe. "Finished fur garments enjoy a large edge over skins in profit and lower costs," they said.

"After decades of neglect, the Alaska fur industry is turning into a subsistence activity, whereas around the world has become one of the most highly profitable fashion enterprises," said Victor and Gaylord. In the paper delivered in August, they proposed a series of steps Alaska should take to put more furs on more backs of consumers:

- With the University of Alaska, implement a research program for genetics, disease control, feed and nutrition, as part of the university's plan to develop linkages with developing industries.

- Education and training in ranching techniques, management skills, and marketing strategy. University students would also benefit from cooperative educational programs in the field; and a ranched and natural fur industry association would advance the cause of the industry.

- Development of modern automation capabilities also is seen as a need to allow Alaskans to compete with other countries.

- Foreign trade marketing, favorable export laws, and trade agreements with auction houses in Hong Kong and Frankfurt would help the industry get a toehold in the market.

# I. Introduction and Business Plan Outline

## A. Environment

1. Alaska has traditionally been a major natural (trapped) fur resource region in the world. Alaskan fur is considered some of the finest in the world, but current marketing trends recognize origin as either USA or Canada; the net result being lessened consumer awareness of the quality furs coming from Alaska and therefore lessened consumer demand for specifically Alaska origin fur. Alaska fur has lost its major marketing and sales advantage, that being the Alaskan label.
2. Alaskan fur must compete with Canadian, Scandinavian, Russian, Chinese, and Lower 48 fur in the world market. Increasingly, ranch raised fur, foreign trade, technology and government subsidies (see Exhibit A) have provided a competitive advantage that is subsequently overwhelming Alaska's natural fur industry in quantity, variety and even quality of fur. The chart below depicts the dramatic increase (602%) in finished Canadian garment exports to the USA alone, driven primarily by the rise of the Canadian fur ranching industry and an advantageous labor situation, over the last six years:

---

### Finished Garments Exported to the United States from Canada

<u>Year</u>	<u>Canadian Dollars</u>
1980	\$22.8 million
1981	\$34.2 million
1982	\$45.6 million
1983	\$58.8 million
1984	\$107.1 million
1985	\$133.0 million
1986 (projected)	\$160.0 million

### Exchange Rate (US \$)

<u>Year</u>	<u>Canadian Dollars</u>
1980	1.1731
1981	1.2009
1982	1.2339
1983	1.2288
1984	1.2943
1985	1.3757
1986	1.3753
1987 (January)	1.3603

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Source: Wallach, V. *Canadian Manufacturers Discuss Price, Delivery and Their Expectations for 1987*. The Business of Fur, 4(8), 1987, p. 32

3. Canada has over 700 mink farms and 550 fox farms which together produced half of the \$91.1 million worth of the raw fur pelts in 1985. This being done by less than 8,000 ranchers compared to 80,000 Canadian trappers. In other words, half the pelts were produced by one tenth the manpower (The Silver Fox Review, 4(1), 1987, p.5).
4. Alaskan wild fur bearing animals have and continue to be boxed trapped to serve as breeding stock for non-Alaskan fur ranches. The genetic traits of Alaska's wild stock and the

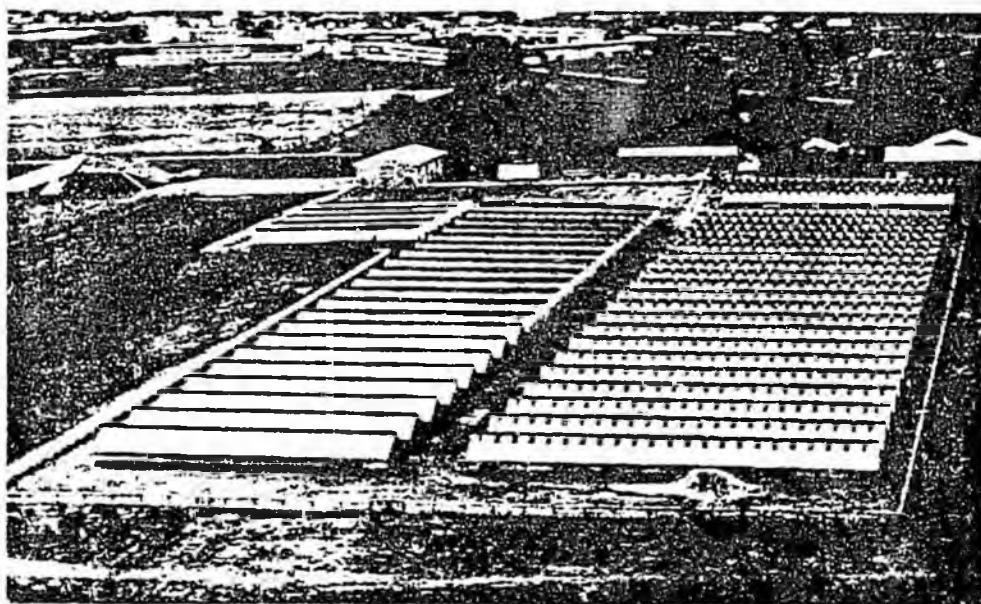
qualities that have made Alaska's furs a sought after and valued product are being exported, and Alaska's long term fur assets are being exploited.

5. Collapse of the oil based economy in Alaska and the sharp reduction in state revenue that resulted has created a vacuum in employment and business opportunities. Depressed rural and urban communities are more eager to explore alternative economic activities.
6. State and local governments and Native corporations appear more committed to stem the flow of investment capital out of Alaska and to use that capital to help diversify Alaska's economy.

## B. Raw Fur

1. Interior Alaska is ideally suited for fur ranching, particularly areas that have access to existing roads or major waterways. The picture below shows the extent of a typical layout for a fur ranch.
2. Providing year round reliable employment, fur ranching cost effectiveness could be enhanced by readily available feed supplements such as fish and feed developed from interior farming projects in Delta and Nenana.
3. The predominant ranched raised furs used in the industry are mink and fox. Alaska has the opportunity to develop the more exotic breeds such as sable and lynx which would give Alaska an exclusive niche in the market from the start.

Moyle Mink Farms  
Heyburn, Idaho



## C. Processing, Design and Manufacturing

1. Fur tanneries, design houses and manufacturing shops would add significantly to the employment level of the fur industry in the state. Finished fur garments enjoy a large edge over skins in profit, lower export costs, etc.

2. The table below on trends in the West German fur industry, is some indication of the increased level of economic activity generated outside the raw fur aspects of the industry that behooves Alaska to move toward fur processing:

	Total Imports in Million DM				
	1982	1983	1984	1985	1986
Raw Furs	673,3	611,8	681,8	727,8	551,1
Dressed Skins & Semi Finished Garments	364,8	334,8	300,7	304,1	321,9
Finished Fur Garments & Hats	819,4	812,2	673,7	486,6	608,5
	1.857,5	1.758,8	1.656,2	1.518,5	1.481,9

	Total Exports in Million DM				
	1982	1983	1984	1985	1986
Raw Furs	46,9	44,0	36,1	41,3	45,9
Dressed Skins & Semi Finished Garments	650,9	613,5	638,2	733,7	603,7
Finished Fur Garments & Hats	285,6	300,8	334,8	355,4	378,8
	983,4	958,3	1.009,1	1.130,4	1.028,4

Source: *International Fur Fair Frankfurt*. International Fur Fashion Review, 6(5), 1987.

#### D. Sales and Marketing

1. The future of the the Alaskan fur industry lies with aggressively pursuing international markets.
2. Marketing alliances and hand shaking efforts with government similar to what the Toronto Fur Export Group has devised (see Exhibit B) are essential if Alaska is to break into the market in a meaningful way.

## II. Financing the Fur Industry Outline

### A. Private Sources

1. Venture Capital
2. Native Corporations (Regional and Village)
3. Stock offering

## B. Public Sources

1. State Assistance Grants or Loans (Agricultural?)
2. State Permanent Fund Investments or Loans
3. Local Government Grants or Loans

## III. Technology and Trade Assistance Outline

### A. Animal Research

1. Genetic research for the purposes of improving the fur color variety, strength and longevity as well as the animal growth rate of Alaskan stock is needed to gain a competitive edge. Research would be oriented toward developing and regulating the raising of pure bred and other ranch raised foxes in Alaska and such new types of foxes as may from time to time become eligible for registration. This could be accomplished by an industry tax earmarked for research programs at the University of Alaska. The University has made it clear through its Six-Year Plan (Goal 2.3) that it intends to develop linkages to assist developing state industries.
2. Disease control research is needed to protect ranch stock in close proximity from devastating consequences. These include primarily tularemia, hydatid disease, mange, giardiasis, distemper, and rabies.
3. Feed and nutritional research is needed to enable the use of available, local food sources such as fish and interior farming products from the Delta and Nenana regions.

### B. Education and Training

1. Development of fur ranching techniques, management skills, and marketing strategy educational programs by the University of Alaska in accordance with its Six-Year Plan (Goal 2.3).
2. Student assistance or cooperative educational programs, such as with the New York Fashion Institute of Technology's Fur Design and Marketing Department offerings.
3. Development of a ranched and natural fur industry association similar in scope and function to the Canadian Fox Breeders Association (CFBA). The CFBA finances its operations through a commission of 1.5% on all ranched fox pelts sold through auction houses who have marketing agreements with CFBA. For the benefit of the membership these funds are used for the marketing and promotion of the "Canada Select Fox" label, rancher education, education grants to affiliated provincial fox/fur breeder associations, support research projects, publish the CFBA newsletter, compile statistics, maintain National head office and other related activities (Role and Function, Canada Fox Breeders Assoc., 1986, pp. 1-2).

### C. Mechanization and Computerization

1. Development of systems and equipment that permit the automation of various stages of fur production is essential if efficient, cost effective ranching and manufacturing is to provide a cost competitive product on the world market. Taran, Canada's largest fur manufacturer, has already operational several systems in various steps in the fur processing procedure in its 100,000 square foot Montreal plant. As Taran's owner stated:

We've been working with one of the universities for 18 months on this project. Skin matching and grading is a critical operation and there's always a shortage of competent help. The system we've developed will not only do the job as accurately, but will also eliminate human error that often comes from fatigue. The computer never gets tired. *Taran Nearing Push-Button Operation. Fur World, June 3, 1985.*

#### D. Trade

1. State of Alaska marketing institute trade assistance and foreign trade agreements particularly with fur auction houses and processing centers such as Hong Kong and Frankfurt.
2. Arrangement of favorable federal export laws and tax structures that facilitate development of a new industry and streamlined shipping and sales channels.

### IV. Summary Outline

- Alaska could become a major center for the North American fur industry within a decade provided steps are taken to build reliable supplies and large numbers of quality furs.
- Being competitive on the world market today and even more in the future will have as a prerequisite, genetic engineering for controlled stock improvement efforts, mechanization for reduced processing costs, and computerization to a degree that allows instantaneous responses to world market conditions. Fur ranching, as a supplement to trapping, is essential to prevent a further erosion of Alaska's position in the fur industry. Gaming out scenarios without a viable fur ranching factor in the state has Alaska virtually losing all its market share within a generation.
- Even with an infusion of substantial effort on the part of private entrepreneurs, state government, the University, and Native Corporations it will be difficult for the Alaskan fur industry to attain the market position it once held. After decades of neglect, the Alaskan fur industry is turning into a subsistence activity whereas around the world has become one of the most highly profitable fashion enterprises.

Let's turn it around.

**EXHIBIT A**  
**Government Support**

# CANADA... THE FUR SOURCE

Adding modern techniques and advanced technology, the wholesale fur market in Canada has steadily increased its production capacity to now take its place as a world-ranking fur manufacturing industry.

The Canadian fur manufacturing industry is a major exporter, with more than half of its total production going to the fur fashion capitals of the world.

Over 120 Canadian manufacturers will show their newest fashion collections at the Canadian International Fur Fair Montreal, from May 4 to 7, 1988, in Place Bonaventure.

Two gala fur fashion shows on the evening of Wednesday, May 4, in Hotel Bonaventure will highlight the fine fashion furs for which the Canadian fur manufacturing industry is known.

1988 CANADIAN  
INTERNATIONAL  
FUR FAIR  
MONTREAL  
NOW...  
WEDNESDAY  
THRU  
SATURDAY  
MAY 4 TO 7, 1988.

For information on the Fair:  
Le Groupe EKSP0  
P.O. Box 1317  
Place Bonaventure  
Montreal, Canada  
H5A 1H1  
Tel. (514) 871-9214  
Telex 055-62171 Code 488



For information on the  
Canadian Fashion Show, contact  
Mr. André Daoust  
Canadian Fur Trade Development  
Institute Inc.  
1435 St. Alexandre, Suite 1265  
Montreal, Canada H3A 2G4  
(514) 288-6609



**V/O SOJUZPUSHNINA**

**USSR**

**MOSCOW-LENINGRAD**



## THE HISTORY

When V/O SOJUZPUSHNINA was born in 1931, no one could have known how much the organization would have grown just fifty years later.

In the early days V/O SOJUZPUSHNINA was mainly concerned with fur exports, working with some six hundred companies in nineteen countries.

Today the organization is involved with both importing and exporting, in natural and synthetic leather and many other animal products as well as their original responsibility, furs. As the activities have grown so has the number of customers, now more than two thousand companies in sixty countries.

V/O SOJUZPUSHNINA is now not only one of the oldest Soviet foreign trade organizations but one of the most international with business contacts from Japan to the Argentine.

The Soviet Union has the largest production of furs in the world, and certainly the most breathta-

king selection. These are gathered in from all over the USSR, with goods from over 6.5 thousand Soviet enterprises.

Fur auctions are held three times a year in Leningrad as well as in London and Leipzig and there are warehouses in the USSR, London, Stockholm and West Berlin.

The major part of the fur production is sold at auctions, with 70-80% offered at the International Fur Auctions in Leningrad.

The original auctions concentrated on wild furs since there were at that time no fur farms in the USSR. Today the situation is quite different.

Wild furs are, of course, still available, with a selection that includes red and white fox, sable, squirrel, volverene, wolf marten, fitch, charsa, raccoon

and marmot. It is in the ranches for furs that there has been enormous growth, with a million mink and thousands of blue and silver fox offered in January from the Soviet fur farms, the same assortment though in smaller quantity put up for sale in July. There are also in the dressed skin section, hair-seal, white-coat and fur seal, squirrel plates and saes. Considerable quantities of karakul and broadtail, including a selection of dressed skins, are presented at every auction.

Production of ranches skins generally has reached a total of 16 million (including only mink, foxes, nutria and sable). Nevertheless the growing demand of the domestic market means that only about twelve per cent of the total Soviet fur production including karakul, will be available to the

export trade.

The most valuable furs, sable and lynx, are sold at the Palace of Furs in Leningrad, with extraordinarily high prices offered for these most beautiful of furs. The export of sable is restricted to not more than 100-120 thousand pelts a year.

All sable comes from the Soviet Union and is sold only through V/O SOJUZPUSHNINA, under the trademark SOBOL, a label that can only be given to genuine Russian sable.

An addition to the catalogue in recent years has been a group of furs from ten countries outside the USSR. Sold on commission, these include wild furs from Mongolia and North Korea, nutria from Poland, mink and blue fox from Finland, Afghan karakul and Norwegian seal.

V/O SOJUZPUSHNINA, are

justifiably proud part in the trade. They are the largest fur supplier they strive also to be the most responsible in the world of the International organization, particularly in the area of conservation of a fur trade combat anti-fur propaganda. Over the years, V/O SOJUZPUSHNINA have managed to receive many Soviet furs regulations at the International Show held every year. In 1980 V/O SOJUZPUSHNINA was awarded a special prize, the Gold Medal for their part in developing and economic of an international fur trade the next fifty years. SOJUZPUSHNINA, this international organization their constant goal.