

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
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**Bristol Bay
Native Corporation**

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February 6, 1989

Honorable Fred Zharoff
Alaska Senate
P.O. Box V
Juneau, Alaska 99811

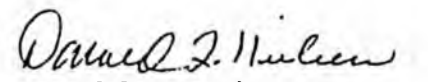


Dear Senator Zharoff:

We understand that you are the prime sponsor, with ten of your colleagues as co-sponsors, of Senate Bill 82. The basic effect of SB-82, if passed, will be to allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to implement a concept which addresses the financing of limited entry permit purchases. In particular, CFAB's concept would provide a potential means of assisting in a situation where a permit holder is motivated to sell his or her permit to a younger family member or other local resident who is unable to obtain financing under conventionally available terms.

At Bristol Bay Native Corporation, we are very much aware of the increasing difficulty of retaining permit ownership in Alaska's rural communities. Your understanding of the matter is evidenced by the introduction of SB-82. We commend you and your colleagues, and we want to express our support for that legislation and for any effort which will enhance CFAB's ability to be a more constructive factor toward the retention of limited entry permit ownership in rural communities.

Very truly yours,


Donald F. Nielsen
Senior Vice President

cc: Honorable George Jacko
Bristol Bay Native Association

SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


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DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Bettye Fahrenkamp
Chair
Senate Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: January 12, 1989

RE: Senate Bill 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

I respectfully request that SB 82 be scheduled for a hearing at the Resources Committee's earliest convenience.

SB 82 would allow the Alaska Commercial Fishing and Agriculture Bank (CFAB) to establish a new program that will help keep limited entry permits in the hands of Alaska residents.

The new program will be especially applicable to those situations in which a commercial fisherman wishes to liquidate his fishing operation by selling his or her limited entry permit to a specific resident fisherman -- frequently a younger family member -- who has little cash and who, alone, is not perceived to be sufficiently creditworthy to be granted a permit purchase loan. Under the new program, a seller may share in the credit risk of a CFAB-financed permit purchase by using a portion of the sale proceeds to purchase a participation in the loan involved. The seller's financial interest is protected because of CFAB's ability to foreclose its permit lien in the event of irremediable default. Also, if desired, the seller can retrieve the permit by having the purchaser (the borrower) designate the seller as the person to assume the debt in the event of default and foreclosure.

As an investment, the loan participation certificate will allow the seller to receive the market interest rate on the deferred portion of the sale proceeds.

The program offers an alternative to what is commonly called "permit migration" or "permit drain". Under current circumstances, a rural permit holder -- unable to find a local fisherman with the financial capacity to buy the permit -- concludes there is no alternative other than to sell the permit to an urban Alaskan or nonresident who can raise the cash upfront.

The bill also makes a number of miscellaneous amendments to CFAB's statute.

Attached is a sectional analysis explaining how the bill works. The sections related to the program described above are Sec. 2, (f) in Sec. 3, Sec. 6, and Sec. 9.

Also included is a copy of CFAB's most recent annual report. I have requested position statements from the Commercial Fisheries Entry Commission and the Division of Banking, Securities and Corporations to use as backup information, but have not yet received them. I will provide them to the committee as soon as they are available.

It is crucial that SB 82 be acted on as soon as possible in order for the new program to be effectively utilized by Alaskan fishermen in 1989. Even though limited entry permits are bought and sold throughout the year, the market sees the most activity and peaks in the period between early March and May.

Thank you for your consideration of this request.



SENATOR FRED F. ZHAROFF
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SECTIONAL ANALYSIS

Senate Bill No. 82 - "An Act relating to loans and lending practices of the Alaska Commercial Fishing and Agriculture Bank; providing an exemption for the bank's membership stock and certain other securities issued by the bank from registration under the Alaska Securities Act; and providing for an effective date."

SECTION 1 PURPOSE.

Explains the rationale behind the bill.

SECTION 2

New paragraph (12) added to 44.81.210(a).

Gives CFAB the power to issue loan participation certificates.

SECTION 3

New subsections (e) and (f) added to 44.81.230.

(e) Allows a borrower to pledge more than one limited entry permit as security for a loan. This will be of benefit to fishermen who have multiple permits and are trying to expand their operations. They will be able to use their limited entry permits as financial assets to leverage the funds they need to purchase vessels, gear, etc. They can diversify and spread fixed costs over more fisheries. This will be of particular benefit to fishermen who have little liquidity, but substantial equity in existing permits.

(f) Allows a borrower to nominate another person to assume the debt on a permit loan. This way the individual who holds a loan participation certificate can take over the loan in the case of foreclosure.

SECTION 4

Amendment to subsection (b) in 44.81.235.

Corrects an oversight in the existing statute by allowing a loan made to purchase a limited entry permit to be included when a single permit is pledged to secure multiple loans.

SECTION 5

Amendment to subsection (c) in 44.81.235.

Corrects an oversight in the existing statute by allowing CFAB to refinance a loan which is made to purchase a limited entry permit. Under the current statute, CFAB may accept a permit as collateral when refinancing loans for fishing vessels, fishing gear, set net sites, and working capital, but not loans which are for the purchase of a permit.

SECTION 6

Amendment to subsection (b) in 44.81.250.

Makes this section of the existing CFAB statute consistent with the amendment in paragraph (f) of Section 3, above, by including a reference to the nomination of a person to assume debt.

SECTION 7

Amendment to subsection (d) in 44.81.250.

Adds reference to loans for the purchase of limited entry permits to the statute regarding CFAB's legal rights during foreclosure.

SECTION 8

New subsection (e) added to 44.81.250.

Describes the procedure CFAB shall follow when it has repossessed a limited entry permit.

SECTION 9

New paragraph (12) added to 45.55.140(a).

Exempts CFAB from the state's securities registration requirements. This restores the exemption CFAB had in statute when it was originally created. The exemption is currently granted to banks, savings institutions, savings and loan associations, trust companies, foreign governments, employee benefit plans, insurance companies, credit unions, nonprofit organizations, and others. The exemption will allow CFAB to offer loan participation certificates and remove the question of whether this transaction must comply with the extensive requirements for securities registration. CFAB will still be subject to annual audits by the Division of Banking, Securities and Corporations, an independent outside auditor, and, upon legislative instruction, by the Legislative Audit Division, as provided for in 44.81.270.

SECTION 10

Immediate effective date.

RECEIVED JAN 12 1989

STEVE COWPER, GOVERNOR

COMMERCIAL FISHERIES ENTRY COMMISSION

P.O. BOX KB
JUNEAU, ALASKA 99811-0302
PHONE: (907) 465-4081

January 11, 1989

The Honorable Fred F. Zharoff
Alaska State Legislature
M/S 3100

Re: CFAB Legislation
SB 82

Dear Senator Zharoff:

Thank you for the opportunity to review your legislation introduced on behalf of the Alaska Commercial Fishing and Agriculture Bank, which I understand has become SB 82.

CFAB's president, Mr. Ed Crane, developed the idea behind the legislation about a year ago, and we have discussed the proposal with him a number of times since then. We are very pleased that CFAB perceived the need and took the initiative to develop this remedy. We also commend you for having introduced this legislation.

SB 82 appears to the Entry Commission to be sound. For those Alaskan fishermen wishing to take advantage of such an opportunity, this legislation should be helpful. In direct response to your question, we would be happy to support this legislation. Please do not hesitate to contact us, if we can provide you with any further information.

Cordially,

COMMERCIAL FISHERIES ENTRY COMMISSION

Bruce Twomley, Chairman
Rich Listowski, Commissioner
Phil Smith, Commissioner

by: _____

cc: Bob Evans
Deputy Chief of Staff
Office of the Governor
M/S 0101



1988 ANNUAL REPORT
ALASKA COMMERCIAL FISHING & AGRICULTURE BANK

CORRECTION

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



1988 ANNUAL REPORT
ALASKA COMMERCIAL FISHING & AGRICULTURE BANK

Alaska Commercial Fishing and Agriculture Bank

1988 Annual Report

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For more information contact:

Alaska Commercial Fishing and
Agriculture Bank
2550 Denali Street, Suite 1201
Anchorage, Alaska 99503
(907) 276-2007 or (800) 544-2228

Executive Message to Members

May 31, 1988, marked the close of CFAB's first twelve-month fiscal year after seven years of operating on a calendar year basis and a five-month transition "year" which ended on May 31, 1987. While that makes certain kinds of comparisons difficult, your Board of Directors and management are pleased with the results of the year just ended and with the identifiable and measurable indications of continued progress.

Operating Results and Effects

As shown in the Financial Reports section of this Annual Report, CFAB's Fiscal 1988 operations resulted in about \$2,410,200 of proceeds before non-recurring items and before the imputation of any income tax effect. There was one particularly distressing and costly extraordinary event: In late 1987 an Anchorage Superior Court jury concluded that, several years earlier, CFAB had negligently and improperly responded to developments and circumstances which involved a multiplicity of parties, a loan proposal to finance a vessel refurbishing, and an undisclosed seaman's lien. There were \$688,500 of net proceeds available after the effects of that judgment, and the Board of Directors acted to apply that amount to reduction of the unallocated and undistributed 1984 loss. One of our major objectives continues to be to amortize that loss in a manner which will equitably spread the burden over a number of years.

The gradual reduction of that unallocated and undistributed 1984 loss produces a clear benefit to existing and future CFAB member-borrowers. But the effect of that benefit is diffused; no member-borrower is able to identify or calculate a specific effect on his or her loan account. However, the factors and events which led to that reduction do in fact have the additional effect of lessening the demands CFAB must make on those member-borrowers. Accordingly, we were pleased to announce a ½ percent reduction in CFAB's Variable Base Interest Rate effective July 1, 1988. Furthermore, as this message is being written there are plans to implement a second reduction, also ½ percent, effective September 1, 1988.

The Trend Toward Financial Stability

What were these "factors" and "events" which are now generating benefits and relieving pressures for CFAB and its member-borrowers? The answer can be found in a review of earlier Annual Reports. Since 1984, there has been in each report to members a discussion of CFAB's burden of non-performing loans. Each of those non-performing loans represents dollars which CFAB has borrowed and on which it must pay interest; but since the non-performing loan is not itself producing interest, CFAB has necessarily relied on other member-borrowers to carry the extra burden. Any interested observer of the Alaska commercial banking community over the past several years can undoubtedly understand and appreciate the dangers which an excessive volume of non-performing loans present for a lending institution.

Although this report to members is about CFAB's operations in Fiscal 1988, a clearer and somewhat more dramatic view of the significance of non-earning loans and of the slow and difficult process of dealing with them can be gained by comparing data at May 31, 1988, and at May 31, 1985 (which was not an audit date). The following schedule shows the number of borrowers with non-earning loans of \$1,000,000 or more; \$500,000 to \$999,999; etc. as of those two dates.

Size of Loan Accounts	May 31, 1985		May 31, 1988	
	Number of Borrowers	Total	Number of Borrowers	Total
Over \$1,000,000	7	\$20,165,695	2	\$ 5,300,515
\$500,000/\$999,999	4	2,552,087	2	1,548,479
\$250,000/\$199,999	5	1,644,819	3	988,641
\$100,000/\$249,999	11	2,041,415	7	1,051,154
\$50,000/\$99,999	15	1,054,709	9	732,983
Under \$50,000	24	507,587	19	424,833
Totals	66	\$27,966,312	42	\$10,046,605

The reduction of about \$17.9 million in non-earning loans during the 3-year period is certainly a positive indicator of CFAB's relative financial health, but unless that reduction has been the result of cash proceeds or of conversion to an interest-earning asset — rather than the result of charge-offs or of acquisition of non-productive collateral — it has little constructive effect.

The schedule below, then, serves to make more evident what the actual effect of the non-earning loan reduction has been.

	May 31, 1985	May 31, 1988	Change
Investments	\$ 3,200,000	\$ -	(\$ 3,200,000)
Earning Loans and Receivables	56,566,400	31,569,700	(24,996,700)
Total Earning Assets	59,766,400	31,569,700	(\$28,196,700)
Less: Interest-Bearing Debt	67,660,000	18,649,700	(49,010,300)
Net (Deficit) Earning Assets	(\$ 7,893,600)	\$12,920,000	\$20,813,600

The positive change of nearly \$21.0 million (an amount well in excess of the \$17.9 million reduction in non-earning loans) is a meaningful indication of CFAB's viability today. We believe and intend that Fiscal 1989 will mark the transition from a "rehabilitation" mode to one of controlled growth for CFAB.

Achievements in Overhead Reductions

There is another important element to CFAB's recovery in which we take special pride and which we must mention. It was evident three and one-half years ago that CFAB's basic operating costs — its "overhead" — needed to be drastically reduced, even while we were committing major and sometimes costly resources to the administration and liquidation of non-performing loans. Those operating expenses had averaged slightly more than \$3.2 million annually in the years 1981 through 1984. In calendar 1985, they were reduced to \$2.8 million. There was significant reduction, to \$1.9 million, in calendar 1986. For the five-month fiscal "year" ending in May 1987 those expenses were incurred at an annualized rate of about \$2.0 million. The total for fiscal 1988 was less than \$1.8 million. That represents a 47 percent reduction from CFAB's peak year (1982) for operating expenses, and translates into \$3,300 less annualized costs for **each and every** loan on CFAB's books at May 31, 1988!

While we take pride in the accomplishment just mentioned, there is greater pride in emphasizing to you that it was essentially an accomplishment of CFAB's entire staff. Directors and managers establish objectives and policies, and provide direction, but implementation and achievement requires the constant and committed effort of every single staff member at every level. CFAB's staff today is a small

group, in numbers; but its overall quality and its record of accomplishments are admired within the Alaska financial community. As owners of CFAB, you also should take pride in that staff.

Other Measures of Progress

There are a number of other matters, with varying levels of significance and visibility, which developed or occurred during Fiscal 1988:

- At the end of the year, member-borrowers' equity investment under the "new" Class B Preferred Stock program totaled \$1,053,400. While there is no special meaning to that number, we believe that exceeding \$1.0 million is a notable milestone for the 2½-year-old program.
- As of November 30, 1987, the State of Alaska's bank examiners performed the first annual examination of CFAB in accordance with statutory amendments proposed by CFAB, and passed by the legislature, in early 1987. In every substantive way, the examiners' findings and report were consistent with CFAB's own evaluation of its overall financial condition and of its loan portfolio.
- CFAB's Bylaws were amended by the Board of Directors and distributed to all members in May. There were numerous changes. Particular objectives, which we believe were achieved, were to make the procedures for nominating Director candidates, and for the election of Directors, simpler and more efficient as well as to make it more practically possible for any interested member to become a candidate.
- The exposure and delivery of CFAB's credit services to prospective applicants is being enhanced by our development of a Loan Correspondent program. This program, simple in concept but with significant potential impact, involves the selection and designation of businesspersons or professionals to act as liaisons or points of contact for CFAB in fishing communities around the state. Their role is to provide basic information about CFAB to inquirers and to offer assistance in organizing and preparing loan applications and supporting information, in communications with CFAB, and in finalizing a loan transaction. They are not CFAB employees, and they have no influence on CFAB's

decision-making process; but they can be vital links in what is sometimes a confusing, intimidating, and/or costly application process. As of this writing, CFAB has Loan Correspondents in various communities in Southeastern Alaska and in the Prince William Sound, Southcentral, and Kodiak areas — by the end of 1988, we hope to have the network extended into the Bristol Bay area and Western Alaska.

- For a period from December 1983 through the end of 1985, CFAB had in place a supplemental member investment program known as the "C Stock Redemption Plan." It was intended to accelerate the accumulation of member-borrower equity, in anticipation of the future need to retire the State's equity investment in the Bank. Member-borrowers whose loans were obtained or modified during the period mentioned were participants in the program and continued to make the required investments, so long as their respective loans were outstanding, through the end of 1987.

Because of perceived ineffective or inappropriate features of the C Stock Redemption Plan, CFAB's "new" Class B Preferred Stock program (mentioned earlier) was adopted in January 1986 as a primary vehicle for borrower-member equity investment in the Bank. In early 1988 the Board of Directors concluded that, as a matter of practicality and equitability, the relatively small amount — \$251,919 — of C Stock Redemption Plan investment should be retired, with the proceeds returned to the owning member-borrowers. That was accomplished as of March 31; depending upon the respective circumstances of member-borrowers' loan accounts, the proceeds were paid in cash or applied to outstanding balances or, in instances where the Bank had earlier recognized a loss of principal or interest, were transferred to CFAB's Allowance for Loan Losses account.

- In January 1986, CFAB introduced its Modified Level Payment loan program — a fairly simple concept within which a loan's repayment installment amounts were fixed for three years at a time, even though the interest rate might vary. At the time of introduction, we believed that loan structure might appeal to some borrowers as a desirable alternative to the traditional repayment requirement of fixed principal amounts plus interest. CFAB's borrowers have voted by their actions, however, and by an overwhelming margin they have been selecting the Modified Level Payment plan as most suitable to their needs.

- Since June 1987, and as a result of amendments to CFAB's statute passed by the 1987 State Legislature, the circumstances under which CFAB may accept a Limited Entry Permit as loan collateral have been broadened. We have seen a considerable increase in the demand for such loans, a trend toward establishing permits as more useful assets for Alaska fishermen.

As the prices for which many permits are traded creep higher, and as an increasing number of the earliest permit-holders reach retirement age, we have encountered many instances in which the potential or desired sale of a permit to a younger local fisherman — frequently a second generation member of the same family — cannot be completed because the intended buyer is not able to make a cash purchase and has not acquired sufficient resources or experience to warrant normal financing by CFAB. We have developed a concept under which we believe CFAB could properly and constructively provide financing in certain of those cases, but the concept cannot be implemented without further amendment to CFAB's statute. We intend to ask the 1989 State Legislature for those amendments.

The 1988 Annual Meeting

In 1986 and 1987, CFAB held its Annual Meetings in three sessions each — sessions were held in Ketchikan, Cordova, Sitka, Kodiak, and Anchorage (twice). The Board of Directors and management continue to be attracted to the philosophical arguments in favor of holding meeting sessions in local communities, but it has not been a successful approach in terms of overall attendance. We have concluded to hold the 1988 meeting in one session, in Anchorage, only; but we are also exploring the feasibility of re-instituting local and informal meetings throughout the year, involving a limited number of CFAB personnel, in order to provide communications opportunities for more members. We welcome members' suggestions.

Paul A. Huppert
Chairman, Board of Directors

Edward E. Crane
President

1988 Loan Activity and Economic Impact

CFAB's Board of Directors and management continue to believe that the very existence of the Bank is a major and positive factor for participants in the resource industries which it serves — particularly those participants in the seafood industry. The number of sources of financing to that industry, especially to the harvester segment, is quite limited; and CFAB's presence in the market provides a strong competitive element.

During the past three to four years, the focus of CFAB's staff, and of the institution as a whole, has been primarily on rehabilitation and on the management of its non-earning loan accounts. The Bank has not been aggressive in seeking new business, and it appears to have been generally perceived over that period as an unattractive lender. Consequently, CFAB's outstanding loan volume has shrunk dramatically since a year-end peak of \$103.6 million at December 31, 1983.

That shrinkage slowed in Fiscal 1988. At May 31, outstanding loan balances were about 6 percent less than at May 31, 1987. There were 111 new term loans made during Fiscal 1988. Those loans totaled about \$7,706,000, of which \$1,303,000 was to refinance existing loans; the remaining \$6,403,000 was "new" money. Of the 111 loans made, 44 were to existing CFAB members, but 67 involved totally new members. That latter number is gratifyingly high in comparison to the experience of the previous three years.

CFAB's impact is manifested in other ways. In addition to the new term loans mentioned above (most of which were to individual fishermen), the Bank established seasonal revolving lines of credit totaling \$18.3 million for processors during Fiscal 1988. Nearly \$17 million of that amount was in the seafood industry; the remainder was for timber processing. A major percentage of the dollars borrowed by these Alaskan processors is for their purchases from fishermen, so CFAB's position in the flow of proceeds to fishermen from the ultimate purchasers of finished products is extremely important.

Balance Sheets

	May 31,		December 31,
	1988	1987	1986
Assets			
Cash	\$ 126,046	\$ 7,315	\$ 147,410
Temporary investments			4,150,000
Loans and other receivables, net of allowance for loan losses of \$2,197,140, \$3,367,869 and \$3,291,026	39,419,164	41,010,553	41,130,799
Accrued interest receivable	2,001,891	2,384,196	1,306,952
Investment in Spokane Bank for Cooperatives	5,526,629	5,390,548	5,390,548
Bank premises, furniture and equipment, net	169,920	297,266	351,874
Acquired assets held for sale	85,589	83,007	83,007
Other assets	13,389	23,511	28,997
	<u>\$47,342,628</u>	<u>\$49,196,396</u>	<u>\$52,589,587</u>
Liabilities			
Accounts payable and accrued expenses	\$ 138,482	\$ 231,523	\$ 191,979
Accrued interest payable	290,327	388,743	233,634
Class B preferred stock subscriptions	5,700		60,163
Notes payable	18,649,657	21,293,770	25,002,539
	<u>19,084,166</u>	<u>21,914,036</u>	<u>25,488,315</u>
Commitments and Contingent Liabilities (Note II)			
Capital and patronage			
Share capital -			
Class C special preferred stock, \$10,000 par value, authorized 4,000 shares, outstanding 3,180 shares	31,800,000	31,800,000	31,800,000
Class B preferred stock, \$100 par value, authorized 400,000 shares, outstanding 31,287, 39,693 and 40,410 shares	3,128,700	3,969,300	4,041,000
Loans receivable on Class B preferred stock	(2,075,300)	(3,448,700)	(3,698,500)
Class A membership stock, \$10 par value, authorized 10,000 shares, outstanding 1,068, 1,001 and 975 shares	10,680	10,010	9,750
	<u>32,864,080</u>	<u>32,330,610</u>	<u>32,152,250</u>
C stock retirement pool		251,919	184,930
Capital in excess of par value	95,310	89,280	86,940
Contributed capital	144,626	144,626	144,626
	<u>33,104,016</u>	<u>32,816,435</u>	<u>32,568,746</u>
Allocated undistributed patronage	825,691	825,691	825,691
Net proceeds		147,708	535,780
Unallocated patronage deficit	(5,671,245)	(6,507,474)	(6,828,945)
	<u>28,258,462</u>	<u>27,282,360</u>	<u>27,101,272</u>
	<u>\$47,342,628</u>	<u>\$49,196,396</u>	<u>\$52,589,587</u>

See notes to financial statements.

Statements of Net Proceeds

	Year ended May 31, 1988	Five months ended May 31, 1987	Year ended December 31, 1986
Interest Income			
Interest on loans and other receivables	\$5,712,091	\$1,966,333	\$6,119,445
Interest on temporary investments	3,707	30,990	165,143
	<u>5,715,798</u>	<u>1,997,323</u>	<u>6,284,588</u>
Interest expense			
Loss on sale of assets	1,936,013	964,863	3,765,900
Provision for loan losses	37,799	4,526	1,347
	<u>(451,699)</u>	<u>49,300</u>	<u>50,470</u>
	<u>1,522,113</u>	<u>1,018,689</u>	<u>3,817,717</u>
	<u>4,193,685</u>	<u>978,634</u>	<u>2,466,871</u>
Other Expenses			
Salaries and benefits	1,233,697	512,117	1,184,760
Occupancy expense	170,808	82,599	203,379
Depreciation and amortization	92,086	45,422	131,789
Travel, lodging and meals	59,089	25,370	66,219
Professional fees	58,149	84,415	110,181
Office operations	47,182	31,951	64,246
Advertising and promotion	41,129	20,832	67,861
Directors' fees	31,725	7,500	25,650
Telephone and postage	26,899	14,399	40,484
Miscellaneous	22,680	6,321	36,522
	<u>1,783,444</u>	<u>830,926</u>	<u>1,931,091</u>
	<u>2,410,241</u>	<u>147,708</u>	<u>535,780</u>
Unusual Item - Costs and Settlement of Litigation	<u>1,721,720</u>		
Proceeds before income tax expense and extraordinary credit	688,521	147,708	535,780
Income tax expense	274,000	53,000	226,300
Proceeds before extraordinary credit	<u>414,521</u>	<u>94,708</u>	<u>309,480</u>
Extraordinary credit — Utilization of net operating loss carryforward	<u>274,000</u>	<u>53,000</u>	<u>226,300</u>
Net Proceeds	<u>\$ 688,521</u>	<u>\$ 147,708</u>	<u>\$ 535,780</u>

See notes to financial statements.

Statements of Changes in Capital and Patronage

	Share capital	C stock retirement pool	Capital in excess of par value
Balance, January 1, 1986	\$31,809,310	\$ 92,152	\$ 82,980
Issuance (redemption) of stock during the year:			
Class B preferred stock, 25,435 shares, net	(2,543,500)		
Class A stock, 44 shares	440		3,960
C Stock retirement pool:			
Class B preferred stock assessments, net of assessments receivable		92,778	
Reduction in loans receivable on Class B preferred stock	2,886,000		
Loan principal charged against allocated undistributed patronage			
Net proceeds			
Balance, December 31, 1986	32,152,250	184,930	86,940
Amortization of unallocated patronage deficit			
Issuance (redemption) of stock during the period:			
Class B preferred stock, 717 shares, net	(71,700)		
Class A stock, 26 shares	260		2,340
Reduction in loans receivable on Class B preferred stock	249,800		
C stock retirement pool:			
Class B preferred stock assessments, net of assessments receivable		66,989	
Patronage refunds paid			
Net proceeds			
Balance, May 31, 1987	32,330,610	251,919	89,280
Amortization of unallocated patronage deficit			
Issuance (redemption) of stock during the year:			
Class B preferred stock, 8,406 shares, net	(840,600)		
Class A stock, 67 shares	670		6,030
Reduction in loans receivable on Class B preferred stock	1,373,400		
C stock retirement pool:			
Retirement of Class B preferred stock assessments		(251,919)	
Net proceeds			
Amortization of unallocated patronage deficit			
Balance, May 31, 1988	<u>\$32,864,080</u>	<u>\$ —</u>	<u>\$ 95,310</u>

See notes to financial statements.

Contributed capital	Allocated undistributed patronage	Net proceeds	Unallocated patronage deficit	Total
\$ 144,626	\$1,045,365	\$ -0-	\$(6,828,945)	\$26,345,488
				(2,543,500)
				4,400
				92,778
				2,886,000
	(219,674)			(219,674)
		535,780		535,780
144,626	825,691	535,780	(6,828,945)	27,101,272
		(321,471)	321,471	
				(71,700)
				2,600
				249,800
				66,989
		(214,309)		(214,309)
		147,708		147,708
144,626	825,691	147,708	(6,507,474)	27,282,360
		(147,708)	147,708	
				(840,600)
				6,700
				1,373,400
				(251,919)
		688,521		688,521
		(688,521)	688,521	
<u>\$ 144,626</u>	<u>\$ 825,691</u>	<u>\$ -</u>	<u>\$(5,671,245)</u>	<u>\$28,258,462</u>

Statements of Changes in Financial Position

	Year ended May 31, 1988	Five months ended May 31, 1987	Year ended December 31, 1986
Source of Funds:			
From operations			
Net proceeds	\$ 688,521	\$ 147,708	\$ 535,780
Items not requiring the use of funds:			
Depreciation and amortization	92,086	45,422	131,789
Provision for loan losses	(451,699)	49,300	50,470
Loss on sale of assets	37,799	4,526	1,347
Funds provided from operations	366,707	246,956	719,386
Net proceeds from sale of assets		4,660	1,368
Proceeds from stock issuance	6,700	2,600	4,400
Decrease in cash		140,095	
Decrease in temporary investments		4,150,000	
Decrease in acquired assets held for sale			1,523,157
Decrease in loans	2,762,118	43,403	21,515,111
Recoveries on loans charged off, net		27,543	
Decrease in other assets	10,122	5,486	61,566
Decrease in accrued interest receivable	382,305		808,394
Increase in accounts payable and accrued expenses		39,544	
Increase in accrued interest payable		155,109	
Increase in Class B preferred stock subscriptions	5,700		60,163
Increase in Class B preferred stock assessments, net		66,989	92,778
Increase in Class B preferred stock, net	532,800	178,100	342,500
	<u>\$4,066,452</u>	<u>\$5,060,485</u>	<u>\$25,128,823</u>
Use of Funds:			
Loans charged off, net of recoveries	\$ 719,030	\$	\$ 200,574
Loan principal charged against allocated undistributed patronage			219,674
Increase in cash	118,731		40,637
Increase in temporary investments			950,000
Increase in accrued interest receivable		1,077,244	
Increase in investment in Spokane Bank for Cooperatives	136,081		138,125
Increase in bank premises, furniture and equipment	2,539		14,874
Patronage refunds paid		214,309	
Decrease in accounts payable and accrued expenses	93,041		116,038
Reirement of Class B preferred stock assessments	251,919		
Increase in acquired assets held for resale	2,582		
Decrease in accrued interest payable	98,416		183,146
Decrease in stock subscription payable		60,163	
Decrease in notes payable	2,644,113	3,708,769	23,265,755
	<u>\$4,066,452</u>	<u>\$5,060,485</u>	<u>\$25,128,823</u>

See notes to financial statements.

Notes to Financial Statements

Year Ended May 31, 1988, Five Months Ended May 31, 1987, and Year Ended December 31, 1986

Note A — Summary of Significant Accounting Policies:

Operations: The Alaska Commercial Fishing and Agriculture Bank (CFAB) was incorporated on May 4, 1979 to promote growth of Alaska agriculture and fishing by providing debt financing to resident-owned businesses engaged in harvesting, processing or marketing, and to promote its own growth as a strong user-oriented institution through cooperative ownership and self-governance.

Interest on loans: The accrual of income is suspended on loans for which the payment of interest is contractually past due more than 90 days.

Investment in Spokane Bank for Cooperatives: The investment in Spokane Bank for Cooperatives (SBC) is stated at cost plus noncash patronage notifications. No ready market exists for this investment. Patronage dividends from SBC reduce interest expense to SBC in the year declared.

Allowance for loan losses: The allowance for loan losses is based upon specific identification of uncollectible loans and a general reserve for those loans not specifically identified.

Acquired assets held for sale: Acquired assets held for sale include those assets acquired through foreclosure. These assets are carried at the lower of fair value or the recorded investment in the related loan. Holding costs are expensed when incurred unless such costs increase the fair value of the asset.

Bank premises, furniture and equipment: Bank premises, furniture and equipment are stated at cost less accumulated depreciation and amortization. Depreciation and amortization are charged to operations by use of the straight-line method over estimated useful lives of three to ten years. Expenditures for maintenance and repairs are charged to operating expense as incurred. Expenditures for renewals or improvements which extend the life of an asset are capitalized at cost and depreciated as stated above. Upon sale, retirement or other dispositions of property, the cost and accumulated depreciation are removed from the respective accounts and the resulting gain or loss recorded.

Income taxes: CFAB qualifies as a cooperative under Section 1361 of the Internal Revenue Code. Deferred income taxes may arise as a result of differences in the time of reporting for financial and Federal income tax purposes. The most significant difference relates to the allowance for loan losses. Deferred taxes have been offset by net operating loss carryforwards. At May 31, 1988, approximately \$5,500,000 of loss carryforward remains.

Change in fiscal year-end: During 1987, the Board of Directors voted to change from a fiscal year-end of December 31 to May 31 to better reflect the Bank's fiscal operating cycle. Accordingly, financial statements as of May 31, 1987 and for the five-month period then ended are presented.

Reclassifications: Certain reclassifications have been made to 1986 information to conform to 1987 and 1988 presentations.

Note B — Loans:

CFAB's loan portfolio by major category is as follows:

	May 31,		December 31,
	1988	1987	1986
Seafood harvesters	\$27,116,280	\$31,501,629	\$29,994,692
Fish processors	4,037,972	6,900,866	8,702,504
Agriculture and timber	7,638,225	7,605,989	7,596,991
Other receivables	4,899,127	1,818,638	1,826,138
	<u>43,691,604</u>	<u>47,827,122</u>	<u>48,120,325</u>
Less loans receivable on Class B preferred stock	(2,075,300)	(3,448,700)	(3,698,500)
	<u>41,616,304</u>	<u>44,378,422</u>	<u>44,421,825</u>
Less allowance for loan losses	(2,197,140)	(3,367,869)	(3,291,026)
	<u>\$39,419,164</u>	<u>\$41,010,553</u>	<u>\$41,130,799</u>

Notes to Financial Statements *continued*

In accordance with its statutory mandate and authority, CFAB's financing activity is limited to the Alaskan commercial fishing and agriculture industries. This concentration of loans in resource-based industries results in an unusual level of risk exposure.

The loan portfolio includes loans which have been classified as nonaccrual. Nonaccrual loans by major category are as follows:

	May 31,		December 31,
	1988	1987	1986
Seafood harvesters	\$ 3,982,047	\$ 5,776,531	\$ 5,311,987
Fish processors	1,122,643	3,726,235	4,441,655
Agriculture and timber	5,830,615	7,579,151	7,569,743
Less loans receivable on Class B preferred stock	(888,700)	(1,555,400)	(1,539,600)
	<u>\$10,046,605</u>	<u>\$15,526,520</u>	<u>\$15,743,785</u>

Activity in the allowance for loan losses is as follows:

	May 31,		December 31,
	1988	1987	1986
Balance at beginning of year	\$3,367,869	\$3,291,026	\$3,441,130
Charged to expense (income)	(451,699)	49,300	50,470
Recoveries on loans previously charged off	125,318	117,491	688,266
	<u>3,041,488</u>	<u>3,457,817</u>	<u>4,179,866</u>
Loans charged off	(844,348)	(89,948)	(888,840)
Balance at end of year	<u>\$2,197,140</u>	<u>\$3,367,869</u>	<u>\$3,291,026</u>

The allowance for loan losses is re-evaluated by management and increases or decreases are recorded through the current period provision for loan losses.

Loans to directors: To qualify for election to the CFAB Board of Directors, an individual must be a borrowing member. Loans to members who serve on the Board of Directors must be approved by the SBC. Loans to these members totalled \$113,897, \$129,094 and \$141,247 at May 31, 1988 and 1987, and December 31, 1986, respectively.

Note C — Investment in Spokane Bank for Cooperatives:

The Spokane Bank for Cooperatives is a member of the Farm Credit System. The Farm Credit System has incurred losses during 1986 and 1987. Continued losses may result in impairment of the investment in the Spokane Bank for Cooperatives in future years as the result of system-wide loss sharing arrangements in effect among system members.

Note D — Bank Premises, Furniture and Equipment:

The following represents a classification of bank premises, furniture and equipment by major category:

	May 31,		December 31,
	1988	1987	1986
Furniture, fixtures and equipment	\$ 833,146	\$ 868,405	\$ 893,365
Leasehold improvements	147,202	147,202	147,202
	<u>980,348</u>	<u>1,015,607</u>	<u>1,040,567</u>
Less accumulated depreciation and amortization	(810,428)	(718,341)	(688,693)
	<u>\$ 169,920</u>	<u>\$ 297,266</u>	<u>\$ 351,874</u>

Note E — Notes Payable:

Notes payable consists of:

	May 31,		December 31,
	1988	1987	1986
SBC long-term notes with interest rates ranging from 11.232% to 11.28% maturing at various dates to January, 1993	\$10,000,000	\$20,000,000	\$25,000,000
SBC short-term notes and seasonal loan with interest rates ranging from 7.26% to 9.00%, maturing at various dates in 1989	8,649,657	1,293,770	—
Other	—	—	2,539
	<u>\$18,649,657</u>	<u>\$21,293,770</u>	<u>\$25,002,539</u>

Notes to Financial Statements *continued*

The loans are secured by substantially all CFAB assets.

Principal payments required on notes payable are as follows:

<u>Year ending May 31,</u>	<u>Amount</u>
1989	\$8,649,657
1990	-
1991	-
1992	5,000,000
1993	5,000,000

Note F — Employee Benefit Plans:

CFAB has an employee benefit plan as defined under Section 401(k) of the Internal Revenue Service Code covering substantially all employees.

An employee is allowed to contribute up to 15% of his/her earnings to the maximum limit allowed by the Code. Contributions by CFAB to the plan are at the discretion of the Board of Directors. Contributions by CFAB for the year ended May 31, 1988, five months ended May 31, 1987, and year ended December 31, 1986 were \$65,539, \$26,169 and \$57,422, respectively.

The Board of Directors voted to terminate CFAB's floor retirement pension plan during 1986. As of December 31, 1986, the net assets available for benefits under the floor retirement plan was \$34,000. This amount will be refunded to CFAB upon the approval of termination by regulatory agencies. In accordance with generally accepted accounting principles, no gain will be recorded until the regulatory approval of the termination is obtained.

Note G — Capital:

Share capital: Shares owned by the State of Alaska must be repurchased by CFAB on or before July 20, 2000.

Preferential shareholders' rights on dissolution are attached in the order of Class C, Class B and Class A.

The following rights apply to the three categories of stock:

Class C - No voting or dividend rights. May only be issued to the State of Alaska.

Class B - No voting rights. Class B stock may only be held by members of CFAB. Prior to December 31, 1985, all loans required a purchase of Class B stock in an amount equal to 10% of the loan balance; however, this purchase was not funded but was evidenced by notes. On loans made subsequent to December 31, 1985, each borrower is required to make a cash purchase of Class B stock in an amount equal to 5% of the total loan. This investment will remain in place until retired by the Board of Directors.

Class A - No dividend rights. Each member of CFAB must own one share of Class A stock. Each share of stock carries one vote. To vote, a member must be engaged in commercial fishing or agriculture and must be a current borrower or have borrowed from CFAB during the preceding two years or have minimum retained patronage earnings with CFAB of \$2,500.

C Stock retirement pool: Loans made by CFAB during the period December 1982 to December 1985 were subject to a supplemental investment requirement called the C Stock Retirement Program. Members borrowing during that period were required to make annual year-end investments related to their respective usage of CFAB funds during that year. The program was discontinued, with respect to new participants, upon adoption of CFAB's current Class B Preferred Stock investment policy at January 1, 1986. In March 1988, the accumulated investments in the C Stock Retirement Pool, totaling \$251,919, were retired. Proceeds were returned in cash to members whose loans had been paid in full or were applied to the credit of members with outstanding loan accounts.

Notes to Financial Statements *continued***Note H — Income Taxes:**

Income tax expense consists of the following:

	Year ended May 31, 1988	Five months ended May 31, 1987	Year ended December 31, 1986
Current:			
Federal	\$ 136,000	\$ 423,000	\$ 179,800
State	28,000	91,000	46,500
	<u>164,000</u>	<u>514,000</u>	<u>226,300</u>
Deferred:			
Federal	77,000	(380,000)	
State	33,000	(81,000)	
	<u>110,000</u>	<u>(461,000)</u>	
	<u>\$274,000</u>	<u>\$ 53,000</u>	<u>\$226,300</u>

At May 31, 1988, CFAB had available for financial reporting purposes approximately \$5,500,000 of net operating loss carryforward which expire May 31, 2000, if not used to reduce future taxable income.

Note I — Restructure of Loans:

During the year ended May 31, 1988, the terms of nonaccrual loans totalling approximately \$1,500,000 were modified through negotiation, and the loans were restructured as a note receivable. The interest rate on that note receivable was reduced from CFAB's normal lending rate for a period of three years. Interest income of approximately \$130,000 was received and recorded on this note for the year ended May 31, 1988; if the interest rates on the original loans had remained in effect, approximately \$200,000 of interest would have been due during that period.

Note J — Commitments and Contingent Liabilities:

Contingencies: CFAB is a litigant in several legal actions arising from normal business activities including actions related to delinquent loans and foreclosures. CFAB reserves for potential losses on delinquent loans as described in Note A. As to litigation outside of delinquencies and foreclosures, management believes that those actions are without merit or that the ultimate liability, if any, resulting from them will not materially affect CFAB's financial position or its results of operations.

Commitments: CFAB has entered into certain noncancelable long-term operating lease agreements for buildings. Rental expense under these leases totalled \$165,348, \$78,558 and \$192,450 for the year, five months and years ended May 31, 1988 and 1987, and December 31, 1986, respectively. Minimum annual lease payments are as follows:

Year ending May 31,	Amount
1989	\$174,000
1990	43,000

Note K — Subsequent Event:

On July 19, 1988, the Federal Bankruptcy Court in Anchorage confirmed the Plan of Reorganization in connection with the Chapter 11 proceeding of one of CFAB's larger borrowers. CFAB subsequently received approximately \$5.7 million of cash and released all of its claims against the debtor. The entire proceeds were applied to reduce CFAB's borrowings from the Spokane Bank for Cooperatives and, in addition, CFAB's nonaccrual loans outstanding were reduced by an amount in excess of \$3.0 million.



Board of Directors
Alaska Commercial Fishing
and Agriculture Bank
Anchorage Alaska

We have examined the balance sheets of Alaska Commercial Fishing and Agriculture Bank as of May 31, 1988, May 31, 1987 and December 31, 1986, and the related statements of net proceeds, changes in capital and patronage, and changes in financial position for the respective year, five months, and year then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of Alaska Commercial Fishing and Agriculture Bank as of May 31, 1988, May 31, 1987 and December 31, 1986, and the results of its operations and the changes in its financial position for the respective year, five months, and year then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Touche Ross & Co.

Certified Public Accountants
July 1, 1988

Board of Directors and Staff

Board of Directors

Paul A. Huppert
Chairman

Robert Waldrop
Vice Chairman

Gilbert Gunderson
Secretary-Treasurer

Hyoung "Henry" Kim
Director

Alan D. Otness
Director

Dean Paddock
Director

Harvey Samuelsen
Director

Staff

Iver Amundsen
Assistant Vice President

Karl D. Barnard
Vice President

Dan Berkshire
Vice President

Christina E. Boyce-Lee
Receptionist

Darleen S. Church
Vice President

Robert H. Clark
Assistant Vice President

Wendy M. Clark
Administrative Secretary

Rosemary G. Cox
Bookkeeper

Edward E. Crane
President

John W. Enge
Fisheries Analyst

A. W. Hall
Business Development Officer

Lela F. Hart
Assistant Vice President

Evelyn Johnson
Receptionist

Sharon A. Morgan
Administrative Support Secretary

Mary B. Ober
Documentation Assistant

David G. Rogers
Senior Vice President

Douglas W. Sindt
Data Processing Supervisor

Lora C. Smith
Senior Bookkeeper

Deborah A. Tosch-Price
Documentation Paralegal

Godelieve C. Van Lint
Administrative Support Clerk

DeLories M. vonGemmingen
Executive Secretary

REMARKS

HEARINGS ON HB-118, THE ELF LEGISLATION, WILL CONTINUE TOMORROW FROM 3:30-5:00 P.M. THIS WILL BE THE LAST OF THE PUBLIC AND INTEREST GROUP TESTIMONY FOR THIS WEEK.

THE NEXT HEARING ON THIS ISSUE WILL BE SOMETIME NEXT WEEK. OUR STAFF IS TRYING TO ARRANGE MEDIA COVERAGE FOR A QUESTION AND ANSWER SESSION WITH BOTH THE ADMINISTRATION AND AN OIL INDUSTRY REPRESENTATIVE BEFORE THE RESOURCES COMMITTEE.

THE COMMITTEE HAS SUBMITTED 25 KEY QUESTIONS TO BOTH THE ADMINISTRATION AND THE AFFECTED OIL COMPANIES. WE EXPECT ANSWERS TO THESE QUESTIONS ON FRIDAY FEBRUARY 17. IN ADDITION, I WOULD LIKE TO OFFER TO THE COMMITTEE MEMBERS, THE AFFECTED OIL COMPANIES AND THE ADMINISTRATION, THE OPPORTUNITY TO ASK QUESTIONS OF EITHER THE ADMINISTRATION OR THE OIL COMPANIES. WE ARE ATTEMPTING TO BE FAIR AND OFFER EACH PARTY AMPLE OPPORTUNITY TO BOTH ASK AND ANSWER QUESTIONS. THIS OFFER IS AN EXTENSION OF THE PROCESS OF TRYING TO GET TO THE FACTS ABOUT CHANGING THE ELF.

HPB

112

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting... BRJ: Occupational Licensing
 Sponsor: Senate Resources Components: All
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		39.8	39.8	39.8	39.8	39.8
TRAVEL		28.7	28.7	13.9	13.9	13.9
CONTRACTUAL		16.3	16.3	16.3	16.3	16.3
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		12.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		98.8	86.8	72.0	72.0	72.0

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

REVENUE		103.0	105.5	108.0	110.5	113.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		98.8	86.8	72.0	72.0	72.0
TOTAL		98.8	86.8	72.0	72.0	72.0

POSITIONS:

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached for explanation.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144
 Date: February 14, 1989

Approved by Commissioner: Larry Mercurieff
 Agency: Commerce and Economic Development

Date: 2/14/89

Distribution (by preparer):

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

BIG GAME COMMERCIAL SERVICES BOARD EXPENSES

The expenses identified in this fiscal note, except where noted, are new costs expected to be incurred by the new Commercial Services Board in addition to those already budgeted for the current Guide Board. The increase in board expenses will be covered by a parallel increase in the division's program receipt authority. The expenses will be paid for by revenues generated by new or increased licensing fees.

FY 90:

PERSONAL SERVICES:

Occupational Licensing Examiner I, Range 125 6 months (PPT), Juneau	\$17.2
Investigator II, Range 14A 6 months (PPT), Anchorage	22.5
Personal Services Sub-Total:	\$39.8

BOARD RELATED TRAVEL:

Travel costs are based on nine (9) members from the following locations:

- 2 Anchorage members
- 2 Fairbanks members
- 1 Juneau member
- 1 Kenai member
- 1 King Salmon member
- 1 Kodiak member
- 1 Kotzebue member

and four (4) staff members (three from Juneau, and one from Anchorage)

Travel to board meetings by board members and staff in the first year is based on:

2 Anchorage meetings (\$6330 x 2)	\$12.7
1 Fairbanks meeting	8.6
1 Juneau meeting	8.5
	\$29.8

GISSE TRAVEL (Rural Implementation):

In order to encourage rural resident participation in the big game commercial services industry, it is planned that a Licensing Examiner will travel to seven rural sites for out-reach purposes; Barrow, Kotzebue, McGrath, Bethel, Dillingham, Kodiak, and Ketchikan
\$5.3

GISSE TRAVEL (Investigational):

Primarily to focus on the licensure of transporters and commercial use permit holders, funds are necessary for an Investigator to travel to seven sites for enforcement activity: Fairbanks, King Salmon, Kotzebue, Bethel, Kenai, Cordova, and Bettles
\$1.1

(Travel to be reduced by \$11.0 already built into the Licensing Board's component of the division of occupational licensing operating budget.)
(\$11.0)

Travel Sub-Total:

\$28.7

CONTINGENTIAL

Printing (Materials, forms, etc.)	\$5.0
Advertising (meetings and regulations)	1.7
Team consultation	3.0
Stamps, postage	2.0
Space rent (for meetings)	1.1
	\$14.8

Contingent Total: \$14.8

\$14.8

OPERATIONAL

Standard operating supplies such as stationery, envelopes, pens, etc.

\$0.0

EQUIPMENT: (one time costs only)

2 - Phone units	1.0ea.	2.0
2 - DP/MP Computer Workstations	0.7ea.	1.4
2 - Desks, double pedestal, 70x36	.7ea.	1.4
2 - Chairs, swivel with arms	.7ea.	1.4
2 - Chairs, side without arms	.2ea.	.4
2 - Typewriters, IBM Selectric III	1.2ea.	2.4
2 - Desk calculators	.1ea.	.2
2 - Tables, 72x36	.2ea.	.4
2 - File cabinets, 5 dr legal with lock	.3ea.	.6
		\$12.0

Equipment Sub-Total:

\$12.0

TOTAL FY 90 COSTS:

98.8

FY 91:

Costs in FY 91 are anticipated to be the same as in FY 90, less the one-time FY 90 equipment cost of \$12.0.

TOTAL FY 91 COSTS:

\$86.8

FY 92:

Cost differences between FY 90 and FY 92 result from a reduction in FY 92 of the number of meetings budgeted under travel. FY 92 expense is based on two meetings, one in Anchorage and one in Fairbanks, while FY 90 was based on four.

Anchorage Board Meeting Deleted	(6.31)
Juneau Board Meeting Deleted	(19.51)
	(14.81)

\$14.81

TOTAL FY 92 COSTS:

\$72.0

Costs are the same for FY 90 and FY 91 taking into consideration two meetings to be held each year, one in Anchorage and the other to alternate between Fairbanks and Juneau each fiscal year.

BIG GAME COMMERCIAL SERVICES BOARD PROGRAM RECEIPTS

The current Guide Board already generates program receipts through the licensing fees. The revenues reflected in this fiscal note represent the amount of **additional** revenue necessary to cover the added costs associated in SB 140 with sunseting the Guide Board and creating a Big Game Commercial Services Board. The revenues are based on a modest increase of \$50.00 in the fees presently established by regulation for licensed guide-outfitters renewing their licenses and against persons seeking initial licenses. Initial licenses are issued for a 1-year period, which renew biennially. SB 140 requires annual renewal and the fees to be set at that amount.

FY 90 is based on:

377 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
200 Transporters x \$50	10.0
100 Outfitters x \$50	5.0
FY 90 Revenue	\$103.0

FY 91 is based on FY 90 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
325 Transporters x \$50	16.2
125 Outfitters x \$50	6.2
FY 91 Revenue	105.5

FY 92 is based on FY 91 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
350 Transporters x \$50	17.5
150 Outfitters x \$50	7.5
FY 92 Revenue	\$108.0

FY 93 is based on FY 92 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
375 Transporters x \$50	18.7
125 Outfitters x \$50	6.2
FY 93 Revenue	\$110.5

FY 94 is based on FY 93 calculations with an additional 50 new licensees added:

127 Guide-Outfitters x \$50	\$63.50
1224 Class-A and Assistant Guides x \$50	\$61.20
100 Transporters x \$50	\$50.00
600 Outfitters x \$50	\$30.00
FY 94 Revenue	\$113.00

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting... BRU: Occupational Licensing
 Sponsor: House Resources Components: All
 Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		39.8	39.8	39.8	39.8	39.8
TRAVEL		28.7	28.7	13.9	13.9	13.9
CONTRACTUAL		16.3	16.3	16.3	16.3	16.3
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		12.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		98.8	86.8	72.0	72.0	72.0
CAPITAL						
REVENUE		103.0	105.5	108.0	110.5	113.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)		98.8	86.8	72.0	72.0	72.0
TOTAL		98.8	86.8	72.0	72.0	72.0

POSITIONS:

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached for explanation.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144
 Date: March 14, 1989

Approved by Commissioner: Larry Merculieff
 Agency: Commerce and Economic Development

Date: 3/14/89

Distribution (by preparer):

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

BIG GAME COMMERCIAL SERVICES BOARD EXPENSES

The expenses identified in this fiscal note, except where noted, are new costs expected to be incurred by the new Commercial Services Board in **addition** to those already budgeted for the current Guide Board. The increase in board expenses will be covered by a parallel increase in the division's program receipt authority. The expenses will be paid for by revenues generated by new or increased licensing fees.

FY 90:

PERSONAL SERVICES:

Occupational Licensing Examiner I, Range 12A 6 months (PPT), Juneau	\$17.3
Investigator II, Range 16A 6 months (PPT), Anchorage	22.5
Personal Services Sub-Total:	\$39.8

BOARD RELATED TRAVEL:

Travel costs are based on nine (9) members from the following locations:

- 2 Anchorage members
- 2 Fairbanks members
- 1 Juneau member
- 1 Kenai member
- 1 King Salmon member
- 1 Kodiak member
- 1 Kotzebue member

and four (4) staff members (three from Juneau, and one from Anchorage)

Travel to board meetings by board members and staff in the first year is based on:

2 Anchorage meetings (\$6330 x 2)	\$12.7
1 Fairbanks meeting	8.6
1 Juneau meeting	8.5
	\$29.8

STAFF TRAVEL (Rural Implementation):

In order to encourage rural resident participation in the big game commercial services industry, it is planned that a Licensing Examiner will travel to seven rural sites for out-reach purposes; Barrow, Kotzebue, McGrath, Bethel, Dillingham, Kodiak, and Ketchikan
\$5.8

STAFF TRAVEL (Investigations):

Primarily to focus on the licensure of transporters and commercial use permit holders, funds are necessary for an Investigator to travel to seven sites for enforcement activity: Fairbanks, King Salmon, Kotzebue, Bethel, Kenai, Cordova, and Bettles
\$4.1

(Travel to be reduced by \$11.0 already built into the Licensing Boards component of the division of occupational licensing operating budget.)
[\$11.0]

Travel Sub-Total:

\$28.7

CONTRACTUAL

Printing (decals, forms, etc.)	\$5.0
Advertising (meetings and regulations)	1.7
Exam consultation	5.0
Phones, postage	3.0
Space rent (for meetings)	1.6
	\$16.3

Contractual Sub-Total \$16.3

COMMODITIES:

Standard operating supplies such as stationery, envelopes, pens, etc. \$2.0

EQUIPMENT: (one-time costs only)

2 - Phone units	.4ea.	.8
2 - DP/WP Computer workstations	2.2ea.	4.4
2 - Desks, double pedestal, 70x36	.7ea.	1.4
2 - Chairs, swivel with arms	.7ea.	1.4
2 - Chairs, side without arms	.2ea.	.4
2 - Typewriters, IBM SelectricIII	1.2ea.	2.4
2 - Desk calculators	.1ea.	.2
2 - Tables, 72x36	.2ea.	.4
2 - File cabinets, 5 dr legal with lock	.3ea.	.6
		\$12.0

Equipment Sub-Total: \$12.0

TOTAL FY 90 COSTS: 98.8

FY 91:

Costs in FY 91 are anticipated to be the same as in FY 90, less the one-time FY 90 equipment costs of \$12.0.

TOTAL FY 91 COSTS: \$86.8

FY 92:

Cost differences between FY 90 and FY 92 result from a reduction in FY 92 of the number of meetings budgeted under travel. FY 92 expense is based on two meetings, one in Anchorage and one in Fairbanks, while FY 90 was based on four.

Anchorage Board Meeting Deleted	[6.3]	
Juneau Board Meeting Deleted	[8.5]	
	[14.8]	[14.8]

TOTAL FY 92 COSTS: \$72.0

Costs are the same for FY 93 and FY 94 taking into consideration two meetings to be held each year, one in Anchorage and the other to alternate between Fairbanks and Juneau each fiscal year.

BIG GAME COMMERCIAL SERVICES BOARD PROGRAM RECEIPTS

The current Guide Board already generate program receipts through its licensing fees. The revenues reflected in this fiscal note represent the amount of **additional** revenue necessary to cover the added costs associated in CSHB 112(Res) with sunseting the Guide Board and creating a Big Game Commercial Services Board. The revenues are based on a modest increase of \$50.00 to the fees presently established by regulation and assessed against licensed guides renewing their licenses and against persons seeking initial licensure. Unlike other occupational licensing areas, which renew biennially, CSHB 112(Res) requires annual renewal and the revenue reflects that mandate.

FY 90 is based on:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
300 Transporters x \$50	15.0
100 Outfitters x \$50	5.0
FY 90 Revenue	\$103.0

FY 91 is based on FY 90 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
325 Transporters x \$50	16.3
125 Outfitters x \$50	6.2
FY 91 Revenue	105.5

FY 92 is based on FY 91 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
350 Transporters x \$50	17.5
150 Outfitters x \$50	7.5
FY 92 Revenue	\$108.0

FY 93 is based on FY 92 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
375 Transporters x \$50	18.8
175 Outfitters x \$50	8.7
FY 93 Revenue	\$110.5

FY 94 is based on FY 93 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
400 Transporters x \$50	20.0
200 Outfitters x \$50	10.0
FY 94 Revenue	\$113.0

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
Title: Big game guiding and sport BRU: Fish & Wildlife Protection
hunting
Sponsor: House Resources Component: Enforcement & ISU
Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Passage of HB 112 would create a nine-member Big Game Commercial Services Board. It is anticipated that travel expenses for Board members would be included in the budget of the Department of Commerce and Economic Development, Division of Occupational Licensing. Department of Public Safety (DPS) staff time will be provided to assist the Board as necessary; no additional fiscal impact on DPS is anticipated.

Prepared by: Captain Conrad Seibel
Division: Fish & Wildlife Protection

Phone: 269-5509
Date: 3/15/89

Approved by Commissioner: SAH. English
Agency: Department of Public Safety

Date: 3/15/89

Jim
3/15/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Bio game hunting and regulation

Agency Affected: Public Safety
BRU: Fish & Wildlife Protection

Sponsor: Senate Resources
Requestor: Senator Fahrenkamp

Component: Enforcement & ISU

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Passage of SB 140 would create a nine-member Big Game Commercial Services Board. One of the board members would be the Commissioner of Public Safety or the Commissioner's designee.

It is anticipated that travel expenses for Board members would be included in the budget of the Department of Commerce and Economic Development, Division of Occupational Licensing. DPS staff time will be devoted to the Board as necessary; no additional fiscal impact is anticipated.

Prepared by: Captain Conrad Seibel
Division: Fish & Wildlife Protection

Phone: 269-5509
Date: 1/30/89

Approved by Commissioner: A. H. English
Agency: Department of Public Safety

Date: 2/6/89

JWC
2/6/89

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 25, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3-14-89

The RESOURCES Committee recommends that:

HOUSE BILL NO. 112 [BIG GAME GUIDING AND SPORT HUNTING]
"An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; and providing for an effective date."

[] be replaced with CS HB 112 (RES) [] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): 7:6-2/15/89

APPROVES PREVIOUS:

- [] fiscal impact CEO 3/14/89
- [] zero fiscal note DNR 2/15/89
- [] zero with analysis Pub. Safety 3/15

~~[]~~ fiscal note(s) published:

[] zero fiscal notes(s) published:

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature] - No Rec.

[Signature] No Rec.

[Signature]
Chairman's signature

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION CSHB 112 (Res)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 15-Feb-89 Agency Affected: Natural Resources
 Title: An Act relating to big game hunting and regulation of commercial services. BRU: Management and Administration
 Sponsor: House Resources Components: Commissioners Office
 Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Travel costs for Natural Resources will be included in DCED fiscal note.

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioners Office Date: 15-Feb-89

Approved by Commissioner: Lennie Gorsuch Date: 15-Feb-89
 Agency: Department of Natural Resources

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Relating to Commercial
 Services for Big Game Hunters
 Sponsor: Resources Committee
 Requestor: _____

Agency Affected: Fish and Game
 BRU: Wildlife Conservation
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	31.5	76.8	67.5	58.2	58.2	58.2
TRAVEL	1.5	5.0	3.0	1.0	1.0	1.0
CONTRACTUAL		.5	.5	.5	.5	.5
SUPPLIES		1.7	1.0	1.0	1.0	1.0
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	33.0	90.0	72.0	60.7	60.7	60.7
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The FY89, FY90, and FY91 expenditures are necessary to coordinate the development of a computerized area-based management system for use in administering the guide/outfitting industry. The FY92, FY93, and FY94 expenditures would depend on the guide/outfitter area management system which is devised and ADF&G's role in that system.

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
 Division: Wildlife Conservation Date: 2/15/89

Approved by Commissioner: [Signature] Date: 2/15/89
 Agency: Fish and Game

Distribution (by preparer):

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

FISCAL NOTE FOR HOUSE BILL 112

Page 2 of 2

	FY89		FY90		FY91		FY92	
	Mos.	Cost	Mos.	Cost	Mos.	Cost	Mos.	Cost
LINE 100								
WB III @ \$4.5/month	3	13.5	11	49.5	11	49.5	11	49.5
AP II @ \$3.3/month	3	9.9	5	16.5	3	9.9	1	3.3
DPC II @ \$2.7/month	3	8.1	4	10.8	3	8.1	2	5.4
TOTAL		31.5		76.8		67.5		58.2
LINE 200 TRAVEL		1.5		5.0		3.0		1.0
LINE 300 CONTRACTUAL SERVICES		0.0		0.5		0.5		0.5
LINE 400 SUPPLIES		0.0		1.7		1.0		1.0
LINE 500 EQUIPMENT		0.0		6.0		0.0		0.0
TOTAL		33.0		90.0		72.0		60.7*

* This total may vary with the role that ADF&G ultimately plays in the guide/outfitter area management system.

**STATE OF ALASKA
1989 LEGISLATIVE SESSION**

BILL VERSION : SB 140
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 6-Feb-89 Agency Affected: Natural Resources
Title: An Act relating to big game hunting and regulation of commercial services. BRU: Management and Administration
Sponsor: Senate Resources Components: Commissioners Office
Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Travel costs for Natural Resources will be included in DCED fiscal note.

Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioners Office Date: 6-Feb-89
Approved by Commissioner: Lennie Gorsuch Date: 6-Feb-89
Agency: Department of Natural Resources

Distribution (by preparer) :

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

Mar 4, 1989

Recommended changes
to the proposed guide
outfitter bill

Proposals for changes thus far certainly have merit but fall short of the mark in resolving the issue of how to control the number of guides in hunting areas throughout Alaska. The urgency to pass a guide bill has created a ready, fire, aim approach to this legislation. In my opinion two important criteria should be considered when making decisions about who will guide big game hunters. Conservation of the resource and the safety and welfare of the hunter client. The legislation being proposed is a carry over in many areas from the old and does little to solve the problem.

The first question a person would reasonably ask when seeking a guided big game hunt in Alaska is, "does the guide know the area being hunted?" Present rules allow for the guide board to interview the guide applicant and determine if the person should be allowed to guide in a particular area. That method of determining experience should supplement other firm, qualifying criteria. I recommend the legislature set a minimum field experience qualification for each game management unit. The experience qualification would apply to guide applicants and to qualified guides. These persons would have to meet the experience requirements prior to guiding in a particular area. For example: Specifically require a guide to have been "in the field" for a minimum of 60 days each year for the past five years in the area that he intends to guide hunters. The US Coast Guard requires that you have operated for 365 days on the water in the past five years before you can apply for a motor boat operators license. We certainly could require a guide to have operated on the land for a similar period of time.

Another question that a hunter client could reasonable ask is , "Has the guide hunted that particular animal?" With the anticipated influx of new, relatively inexperienced guides, it is entirely possible that a guide may know little more than the client when hunting various big game species. I recommend firm criteria be established

in the guide/outfitter bill that would insure that guide applicants and current licensed guides furnish evidence that they have participated in a minimum of six hunts for each type of big game they intend to hunt. This objective criteria would complement the proposed Big Game Commercial Services Board's interview of the guide applicant and provide definitive criteria for current guides to meet.

In the past guides have not been required to prove their financial responsibility. As a specialty contractor in Alaska I am required to meet numerous financial hurdles before I can do business. Among these requirements are bonding, liability insurance and workmans compensation insurance. This kind of financial responsibility is required for most if not all the licensed professions in Alaska. We have none for the guiding industry. I recommend that a guide who employs one or more assistant guides meet the same requirements for financial responsibility as other employers.

It is my opinion that if the above criteria were implemented it would have chilling effect upon guides moving into new territories. In effect it would increase the professionalism among guides and go far in insuring that a hunter client has a safe and rewarding Alaska hunting experience. In addition the limited number of guides qualifying in the various areas would greatly decrease the pressure on the game resources. In the past we may have been able to assume that established guides with exclusive territories were doing a good job and met the criteria that I have recommended. Those assumptions will very likely not hold true unless specific qualifications are made a pre-requisite for guiding.

This recommendation relates to assistant guides and Class A assistant guides. There is no reason to continue the two distinctions. I recommend that both types of assistant guides be merged and new, tough qualifying criteria be established. Among these qualifications could be a requires training course in guiding-outfitting. With the guiding industry being one of the cornerstones of the economy it makes good sense to have a program for persons to train and become qualified as an assistant guide. It would give licensed guides a manpower pool of trained assistants and provide a mechanism for young people to enter into the guiding industry.

The last item of concern is the transitioning of outfitters into the guiding business. Criteria has been proposed that would allow outfitters to take the guide test if they met certain qualifications. Among that criteria is having been engaged in the business of outfitting in 1986, 87 and 88 and having registered a camp, cabin or lodge in 1988. The fact that a person registered a camp, cabin or

lodge has nothing to do with outfitting. It has something to do with being a lodge operator'. The problem is no one has been willing to define an outfitter. Webster defines outfit as, 1. the equipment used in an activity. Webster further defines outfitting in the same context as: to furnish with an outfit. This definition can only leave a person with the inescapable conclusion that to outfit you must furnish someone with equipment related to the activity. In the business of big game hunting I would conclude that to outfit you would provide a variety of equipment such as tents, rafts, cooking gear and other paraphernalia related to hunting. We surely strayed far afield to require a outfitter to register a camp, cabin or lodge in the field. That requirement practically guarantees that big game animals will be taken near the camp, cabin or lodge. If the outfitter is present when the big game animal is taken that would be in direct conflict with the stipulation that no person may accompany a hunter in the field for compensation. To do so would be guiding. That is how I understand the legislation and more importantly how I understand my responsibilities as an outfitter in 1988. It is my recommendation that all outfitters be required to meet the minimum criteria for assistant guides and prove they provided equipment to hunters during the years in question. To require that you have registered a camp, cabin or lodge in the field in 1988 to meet one of the transitioning criteria for a guide application is not reasonable. It ignores the outfitter that provided outfitting services without being in the field with the hunter.

Hopefully these recommendations will provide a differing insight than from what is being proposed.

Submitted by:

Reginald D Krkovich
Po Box 20557
PH: 907-780-4156
Juneau, AK 99802

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 112

Line 20
Page 7, ~~line 20~~, after "if", through line ~~25~~ 26.

Delete all material and insert:

"(1) the person

(A) has been employed for at least one season as a licensed assistant guide-outfitter; and

(B) has had at least 10 years hunting experience in the game management unit in which the person is to be employed; military service outside the state for not more than three years shall be accepted as part of the required 10 years hunting experience; or

(2) the person

(A) physically resides in the game management unit in which the person is to be employed; and

(B) has had at least 15 years hunting experience in the game management unit in which the person is to be employed; military service outside of the state for not more than three years shall be accepted as part of the required 15 years hunting experience."

(C) has passed the qualification examinations prepared and administered by the board.

6-0401H ✓
Utermohle
3/13/89

Original sponsor: Resources Committee

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 112 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to big game hunting and to the
7 regulation of big game and marine mammal guide-out-
8 fitting, transportation, and other commercial ser-
9 vices for big game hunters; creating the Big Game
10 Commercial Services Board; relating to presumptive
11 sentences for violation of certain big game commer-
12 cial services statutes; and providing for an effec-
13 tive date."

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

15 * Section 1. AS 08.01.010(10) is repealed and reenacted to read:

16 (10) Big Game Commercial Services Board (AS 08.54.300);

17 * Sec. 2. AS 08.03.010(c)(20) is repealed and reenacted to read:

18 (20) Big Game Commercial Services Board (AS 08.54.300) --

19 June 30, 1993.

20 * Sec. 3. AS 08.54 is amended by adding new sections to read:

21 ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

22 Sec. 08.54.300. CREATION AND MEMBERSHIP OF BOARD. (a) For the
23 purposes of licensing and regulating the activities of providers of
24 commercial services to big game hunters in the interest of the state's
25 wildlife resources there is created the Big Game Commercial Services
26 Board. For administrative purposes, the board is in the Department of
27 Commerce and Economic Development.

28 (b) The board consists of nine members:

29 (1) two members who are licensed guide-outfitters;

1 (2) two members who are licensed transporters, one of whom
2 must be engaged in the business of providing air transportation ser-
3 vices;

4 (3) one member who holds a commercial use permit, but does
5 not hold any class of guide-outfitter license or a transporter
6 license;

7 (4) one member of the Board of Game who is chosen by the
8 Board of Game and who does not hold a commercial use permit;

9 (5) one member who represents Native landholders; and

10 (6) two public members.

11 Sec. 08.54.310. DUTIES AND POWERS. (a) The board shall

12 (1) prepare, grade, and administer

13 (A) a written and oral examination of an applicant for
14 a guide-outfitter license that requires demonstration that the
15 applicant is qualified generally to provide guide-outfitted hunts
16 and, in particular, to guide-outfit in each game management unit
17 the applicant has selected; if an applicant demonstrates limited
18 ability to read or write the English language, the entire examin-
19 ation shall be administered orally; and

20 (B) an oral examination of a guide-outfitter who seeks
21 an amendment of a game management unit certification; the examin-
22 ation must require demonstration that the guide-outfitter is
23 qualified to provide guide-outfitted hunts in each new game
24 management unit for which the guide-outfitter seeks to be certi-
25 fied;

26 (2) determine qualifications of applicants for class-A
27 assistant guide-outfitter, marine mammal guide-outfitter, and assis-
28 tant guide-outfitter licenses and authorize the issuance of licenses
29 to those who qualify;

1 (3) establish performance standards for providers of big
2 game commercial services and regulate the activities of these provid-
3 ers;

4 (4) compile, maintain, and publish an annual register of
5 big game commercial service providers subject to this chapter who have
6 not been convicted of a violation of a state or federal statute or
7 regulation relating to the provision of big game commercial services;
8 a big game commercial services provider listed in the register whose
9 license or permit is revoked or suspended shall be removed from the
10 register while the provider's license or permit is revoked or sus-
11 pended;

12 (5) prohibit guide-outfitting, transporting, and other big
13 game commercial services activities that are unsportsmanlike, uneth-
14 ical, unsafe, against principles of game conservation, degrading to a
15 profession subject to this chapter, or that adversely affect natural
16 resources;

17 (6) after a hearing, revoke, suspend, or deny renewal of a
18 license or permit under AS 08.54.500 - 08.54.510;

19 (7) authorize issuance of transporter licenses;

20 (8) authorize issuance of commercial use permits;

21 (9) meet at least twice annually, once in Anchorage and
22 once in another municipality;

23 (10) provide for registration of base camps and facilities
24 used by persons who are licensed or who hold a permit under this
25 chapter.

26 (b) The board may

27 (1) establish, subject to the prior approval of the commis-
28 sioner of fish and game, a resource-based management system for allo-
29 cating access to big game hunting opportunities among guide-outfitters

1 licensed under this chapter;

2 (2) establish the level of supervision that a guide-out-
3 fitter shall provide for class-A assistant guide-outfitters and assis-
4 tant guide-outfitters who are employed by the guide-outfitter.

5 Sec. 08.54.320. BOARD REGULATIONS. The board shall adopt proce-
6 dural and substantive regulations required by this chapter or reason-
7 ably necessary for its administration.

8 Sec. 08.54.330. BOARD ASSISTANCE. The Department of Fish and
9 Game, Department of Natural Resources, and Department of Public Safety
10 shall provide the board with information, data, or technical assis-
11 tance requested by the board for the purposes of licensing and reg-
12 ulating the activities of providers of commercial services to big game
13 hunters.

14 ARTICLE 5. LICENSING.

15 Sec. 08.54.350. GUIDE-OUTFITTER LICENSE. (a) A natural person
16 is entitled to a guide-outfitter license if the person

17 (1) is 21 years of age or older;

18 (2) has practical field experience in the handling of
19 firearms, hunting, judging trophies, field preparation of meat and
20 trophies, first aid, photography, and related guide-outfitting activi-
21 ties;

22 (3) is familiar with the terrain and transportation prob-
23 lems in the game management unit for which the license is requested;

24 (4) has passed the qualification examinations prepared and
25 administered by the board;

26 (5) has demonstrated to the board sufficient standards of
27 competence and ethical conduct and has not been convicted of a state
28 or federal hunting or guide-outfitting statute or regulation within
29 the last five years for which the person was fined more than \$500 or

1 imprisoned for more than five days;

2 (6) has legally hunted in the state for part of each of any
3 five years in a manner directly contributing to the person's experi-
4 ence and competency as a guide-outfitter;

5 (7) has been licensed as and performed the services of a
6 class-A assistant guide-outfitter or assistant guide-outfitter in the
7 state for a part of each of three years, or has guide-outfitted in the
8 state for a part of each of three years under a marine mammal guide-
9 outfitter license issued under AS 08.54.360;

10 (8) has demonstrated a current knowledge of fishing, hunt-
11 ing, and guide-outfitting regulations;

12 (9) is capable of performing the essential duties associ-
13 ated with guide-outfitting;

14 (10) has been favorably recommended in writing by six big
15 game hunters, two for each year of the person's most recent three
16 years as a class-A assistant guide-outfitter or assistant guide-out-
17 fitter, when the person has guide-outfitted or assisted in guide-out-
18 fitting as a class-A assistant guide-outfitter or assistant guide-out-
19 fitter, whose recommendations have been solicited by the board from a
20 list provided by the applicant;

21 (11) possesses a business license to provide guide-out-
22 fitting services; and

23 (12) has paid the license fee and commercial use permit
24 fee.

25 (b) A person who receives a master guide-outfitter license under
26 sec. 12 of this Act may use the title master guide-outfitter and may
27 annually renew the license unless the license has been revoked or
28 suspended or has lapsed under AS 08.54.440. A master guide-outfitter
29 license is for all purposes under this chapter a guide-outfitter

1 license.

2 (c) A guide-outfitter may contract to guide-outfit hunts for big
3 game and may provide transportation to, from, or in the field that is
4 incidental to a guide-outfitted hunt.

5 Sec. 08.54.360. MARINE MAMMAL GUIDE-OUTFITTER LICENSE. (a) The
6 board may issue a marine mammal guide-outfitter license to a natural
7 person who applies to guide-outfit a hunt for a specific species of
8 marine mammal in a specifically designated area if the person

9 (1) is 21 years of age or older;

10 (2) has, for at least 10 years, resided and hunted in the
11 area of the state in which the applicant is to guide-outfit;

12 (3) is able to perform the duties of a marine mammal guide-
13 outfitter;

14 (4) has demonstrated knowledge of the following areas to an
15 extent and degree satisfactory to the board:

16 (A) current fish and game laws and regulations;

17 (B) relevant characteristics of the specific species
18 to be hunted;

19 (C) field preparation of trophies;

20 (D) care of game meat;

21 (E) use of guide-outfitting gear;

22 (F) firearm safety;

23 (G) practical first aid; and

24 (H) booking and contracting hunts;

25 (5) has not been convicted of violating a state or federal
26 game or guide-outfitting statute or regulation during the previous
27 five years for which the person was fined more than \$500 or imprisoned
28 for more than five days;

29 (6) possesses a business license to provide guide-

1 outfitting services; and

2 (7) has paid the license fee and commercial use permit fee.

3 (b) A marine mammal guide-outfitter may contract to guide-outfit
4 hunts for species of marine mammals for which the marine mammal guide-
5 outfitter license is issued.

6 Sec. 08.54.370. RENEWAL OF GUIDE-OUTFITTER LICENSE AND MARINE
7 MAMMAL GUIDE-OUTFITTER LICENSE. (a) An applicant for renewal of a
8 guide-outfitter license or a marine mammal guide-outfitter license
9 shall submit with the application for renewal

10 (1) the hunt record required under AS 08.54.550 for the
11 period covered by the current license;

12 (2) the license fee for the next licensing period; and

13 (3) the commercial use permit fee for the next licensing
14 period.

15 (b) The department may not renew a license under this section
16 unless all fees have been paid in full and the hunt record has been
17 filed.

18 Sec. 08.54.380. CLASS-A ASSISTANT GUIDE-OUTFITTER LICENSE. (a)
19 A natural person is entitled to a class-A assistant guide-outfitter
20 license if the person

21 (1) has been employed for at least one season as a licensed
22 assistant guide-outfitter; and

23 (2) has had at least 10 years hunting experience in the
24 game management units in which the person is to be employed; military
25 service outside the state for not more than three years shall be
26 accepted as part of the required 10 years hunting experience.

27 (b) A class-A assistant guide-outfitter

28 (1) may not contract to guide-outfit hunts;

29 (2) shall be under the supervision of a guide-outfitter who

1 has contracted with the client for whom the class-A assistant guide-
2 outfitter is conducting the hunt; and

3 (3) may take charge of a camp and conduct guide-outfitter
4 activities from it without the guide-outfitter being present in the
5 area if the guide-outfitter is supervising the guide-outfitting activ-
6 ities.

7 Sec. 08.54.390. ASSISTANT GUIDE-OUTFITTER LICENSE. (a) A
8 natural person is entitled to an assistant guide-outfitter license if
9 the person

10 (1) is 18 years of age or older;

11 (2) passes an examination administered by the board;

12 (3) has hunted in the state in two of the last five years;

13 (4) has demonstrated practical knowledge of first aid and
14 cardiopulmonary resuscitation;

15 (5) is in sound physical condition; and

16 (6) meets additional qualifications that the board may
17 establish.

18 (b) An assistant guide-outfitter

19 (1) may not contract to guide-outfit hunts; and

20 (2) shall be employed by a guide-outfitter and under the
21 supervision of a guide-outfitter or class-A assistant guide-outfitter
22 at all times while the assistant guide-outfitter is in the field on
23 guide-outfitted hunts.

24 Sec. 08.54.400. TRANSPORTER LICENSE. (a) A person is entitled
25 to a transporter license if the person

26 (1) applies on a form provided by the department;

27 (2) pays the license fee;

28 (3) pays the commercial use permit fee;

29 (4) provides proof of

1 (A) an air taxi/commercial operator certificate issued
2 by the Federal Aviation Administration under 14 C.F.R. Part 135,
3 if the person provides air transportation services to big game
4 hunters;

5 (B) licensure by the Coast Guard to carry passengers
6 for hire, if the person provides water transportation services to
7 big game hunters and if licensure is required by the Coast Guard;
8 and

9 (5) has a business license to transport big game hunters.

10 (b) A transporter may provide transportation services for com-
11 pensation to big game hunters and accommodations in the field at a
12 permanent lodge, house, or cabin owned by the transporter or on a boat
13 with permanent living quarters located on salt water. A transporter
14 may also provide, under authority of a commercial use permit, other
15 big game commercial services as defined under AS 08.54.460. A trans-
16 porter may not provide big game commercial hunting services without
17 holding the appropriate license.

18 (c) An applicant for renewal of a transporter license shall
19 submit with the application for renewal

20 (1) an activity report on a form provided by the department
21 for the period covered by the current license; an activity report
22 shall contain information required by the board by regulation;

23 (2) the license fee for the next licensing period;

24 (3) the commercial use permit fee for the next licensing
25 period; and

26 (4) proof of

27 (A) an air taxi/commercial operator certificate issued
28 by the Federal Aviation Administration under 14 C.F.R. Part 135,
29 if the applicant provides air transportation services to big game

1 hunters;

2 (B) licensure by the Coast Guard to carry passengers
3 for hire, if the applicant provides water transportation services
4 to big game hunters and if licensure is required by the Coast
5 Guard.

6 (d) The department may not renew a transporter license unless
7 all fees have been paid in full and the activity report required under
8 (c)(1) of this section and the proof required under (c)(4) of this
9 section have been filed.

10 (e) A transporter shall place a decal provided by the department
11 on each plane, boat, vehicle, or other equipment used by the trans-
12 porter to provide transportation services to big game hunters. The
13 decal must bear the transporter's license number. The decal is valid
14 only for the plane, boat, vehicle, or other equipment for which the
15 decal is issued.

16 Sec. 08.54.410. APPEAL TO COMMISSIONER FROM BOARD ON DENIAL OF
17 LICENSE. The commissioner of commerce and economic development may
18 order that an applicant for an initial license under AS 08.54.350 -
19 08.54.400 be allowed to take the license examination or be issued the
20 license if, after reviewing a petition filed by the applicant, the
21 commissioner finds that

22 (1) the board denied the applicant an opportunity to take
23 the license examination or refused to approve issuance of the license;

24 (2) the board's denial or refusal has been upheld by a
25 final administrative order and the order has not been appealed to the
26 superior court under AS 44.62.560;

27 (3) the board's denial or refusal was based on

28 (A) an error of fact by the board; or

29 (B) the applicant's failure of the license examination

1 due to faulty or unfair examination questions or procedures;

2 (4) the applicant is otherwise qualified to take the exam-
3 ination or to be issued the license; and

4 (5) sustaining the board's denial or refusal would work a
5 substantial injustice on the applicant.

6 Sec. 08.54.420. RENEWAL OF LICENSES. Notwithstanding AS 08.01.-
7 100(a), guide-outfitter, marine mammal guide-outfitter, and transport-
8 er licenses shall be renewed annually on dates set by the department
9 with the approval of the board.

10 Sec. 08.54.430. EXAMINATIONS FOR GUIDE-OUTFITTER LICENSES. (a)
11 The board shall administer the qualification examinations required
12 under this chapter at least twice a year. An examination may not be
13 given within 90 days after the previous examination. At least once
14 every other year the board shall give the examination at a location
15 other than Anchorage.

16 (b) The board shall regularly disseminate information regarding
17 examinations and other qualifications for all classes of guide-out-
18 fitter licenses to residents of the rural areas of the state.

19 Sec. 08.54.440. FAILURE TO RENEW. (a) A license may not be
20 issued to a guide-outfitter, marine mammal guide-outfitter, class-A
21 assistant guide-outfitter, or assistant guide-outfitter who has failed
22 to renew a license issued under this chapter for two consecutive years
23 unless the guide-outfitter, marine mammal guide-outfitter, class-A
24 assistant guide-outfitter, or assistant guide-outfitter again meets
25 the qualifications for initial issuance of the license.

26 (b) Notwithstanding (a) of this section, a guide-outfitter who
27 fails to renew a license is not required to requalify under AS 08.54.-
28 350(a)(7), unless the license has been lapsed for three or more years.

29 Sec. 08.54.450. LICENSE AND EXAMINATION FEES. (a) The

1 department shall set license fees under AS 08.01.065 for each of the
2 following:

- 3 (1) guide-outfitter
- 4 (2) class-A assistant guide-outfitter;
- 5 (3) assistant guide-outfitter;
- 6 (4) marine mammal guide-outfitter;
- 7 (5) transporter.

8 (b) The license fee for the guide-outfitter, marine mammal
9 guide-outfitter, class-A assistant guide-outfitter, or assistant
10 guide-outfitter license is in addition to the fee required for a
11 hunting license.

12 (c) An applicant for a qualifying examination for any class of
13 guide-outfitter license shall pay a fee established by regulations
14 adopted under AS 08.01.065.

15 Sec. 08.54.460. COMMERCIAL USE PERMIT HOLDER. A person, other
16 than a guide-outfitter, marine mammal guide-outfitter, or a trans-
17 porter, who provides other big game commercial services for compen-
18 sation shall register with the board on a form provided by the board
19 and shall obtain a commercial use permit and pay the annual commercial
20 use permit fee set under AS 08.54.470. In this section "other big
21 game commercial services" includes provision of accommodations in the
22 field at a permanent lodge, house, or cabin owned by the commercial
23 use permit holder, hunt broker services, gear rental services, photo-
24 graphic or videographic services, and services as defined by the board
25 by regulation.

26 Sec. 08.54.470. COMMERCIAL USE PERMIT AND FEE. (a) A person
27 who is licensed under this chapter as a guide-outfitter, marine mammal
28 guide-outfitter, or transporter shall obtain an annual commercial use
29 permit and pay an annual commercial use permit fee.

1 (b) The department, in consultation with the board, shall set
2 the amount of the commercial use permit fee.

3 (c) A guide-outfitter, marine mammal guide-outfitter, and trans-
4 porter shall pay the commercial use permit fee at the time of applica-
5 tion for issuance or renewal of a guide-outfitter license, marine
6 mammal guide-outfitter license, or transporter license.

7 (d) The commissioner of administration shall separately account
8 for commercial use permit fees deposited in the general fund by the
9 department. The annual estimated balance in the account may be used
10 by the legislature to make appropriations to the Department of Fish
11 and Game and the Department of Public Safety to carry out their re-
12 spective responsibilities for management of game resources and en-
13 forcement of game laws.

14 ARTICLE 6. PENALTIES.

15 Sec. 08.54.500. DISCIPLINE OF GUIDE-OUTFITTERS. (a) The board
16 may hold a hearing to determine whether disciplinary action is neces-
17 sary if a written complaint concerning the guide-outfitting activities
18 of a licensee who holds any class of guide-outfitter license is filed
19 with the board. The board shall hold a hearing to determine whether a
20 licensee should be disciplined within a reasonable time after

21 (1) complaints concerning a licensee's guide-outfitting
22 activities are filed with the board within a two-year period by three
23 or more of the licensee's clients from separate hunting parties;

24 (2) a complaint concerning a licensee's conduct during a
25 life-threatening situation is filed with the board; or

26 (3) a licensee has been convicted of a violation of a
27 federal or state statute or regulation relating to hunting or pro-
28 vision of big game commercial services.

29 (b) After a hearing, the board may revoke, suspend, or deny

1 renewal of any class of guide-outfitter license, if the board finds
2 that the licensee

3 (1) engaged in unethical activity, unsafe activity, or
4 activity that adversely affects the natural resources of the state
5 when the activity is related to the purposes of providing guide-out-
6 fitting services, however the board may not discipline a licensee
7 under this paragraph for unsafe operation of an aircraft; or

8 (2) violated a provision of a federal or state statute or
9 regulation relating to hunting or provision of big game commercial
10 services.

11 (c) After a hearing, the board shall revoke any class of guide-
12 outfitter license if the board finds that the licensee

13 (1) does not meet the qualifications specified by statute
14 or regulation for the license held;

15 (2) is incompetent as a guide-outfitter, marine mammal
16 guide-outfitter, class-A assistant guide-outfitter, or assistant
17 guide-outfitter; or

18 (3) during the five years immediately preceding the hearing
19 has been convicted of a violation of a federal or state statute or
20 regulation prohibiting

21 (A) waste of a wild food animal;

22 (B) hunting on the same day airborne;

23 (C) hunting during a closed hunting season; or

24 (D) hunting in an area closed by state or federal

25 regulation.

26 (d) If a certified copy of a judgment of conviction of a licens-
27 ee who holds any class of guide-outfitter license for an offense
28 described under (c)(3) of this section is filed with the board, the
29 board shall immediately suspend the licensee's license. The

1 suspension may be ordered even if the conviction resulted from a plea
2 of nolo contendere or if the conviction is under appeal. The suspen-
3 sion remains in effect until after the final disposition of the disci-
4 plinary proceeding under this section.

5 Sec. 08.54.505. DISCIPLINE OF TRANSPORTERS AND COMMERCIAL USE
6 PERMITTEES. (a) The board may hold a hearing to determine whether
7 disciplinary action is necessary if a complaint concerning the big
8 game commercial service activities of a transporter who is licensed
9 under AS 08.54.400 or a commercial use permittee who holds a permit
10 issued under AS 08.54.460 is filed with the board. The board shall
11 hold a hearing to determine whether a licensee or permittee should be
12 disciplined within a reasonable time after

13 (1) complaints concerning a licensee's or permittee's
14 activities are filed with the board within a two-year period by three
15 or more of the licensee's or permittee's clients from separate hunting
16 parties; or

17 (2) a licensee or permittee has been convicted of a viola-
18 tion of a federal or state statute or regulation relating to hunting
19 or provision of big game commercial services.

20 (b) After a hearing, the board may revoke, suspend, or deny
21 renewal of a transporter license or commercial use permit issued under
22 this chapter, if the board finds that the licensee or permittee

23 (1) engaged in unethical activity, unsafe activity, or
24 activity that adversely affects the natural resources of the state
25 when the activity is related to the purposes of providing big game
26 commercial services, however the board may not discipline a licensee
27 or permittee under this paragraph for unsafe operation of an aircraft;
28 or

29 (2) violated a provision of a federal or state statute or

1 regulation relating to hunting or provision of big game commercial
2 services.

3 (c) The board may not revoke, suspend, or deny renewal of a
4 transporter license or commercial use permit for a violation of a
5 federal or state statute or regulation relating to game or provision
6 of big game commercial services committed by an employee of the li-
7 censee or permittee unless the licensee or permittee participated or
8 aided in the violation.

9 (d) After a hearing, the board shall revoke a license or permit
10 if the board finds that the licensee or permittee

11 (1) does not meet the qualifications specified by statute
12 or regulation for the license held; or

13 (2) during the five years immediately preceding the hearing
14 has been convicted of a violation of a federal or state statute or
15 regulation prohibiting

16 (A) waste of a wild food animal;

17 (B) hunting on the same day airborne;

18 (C) hunting during a closed hunting season; or

19 (D) hunting in an area closed by state or federal

20 regulation.

21 (e) If a certified copy of a judgment of conviction of a licens-
22 ee or permittee for an offense described under (d)(2) of this section
23 is filed with the board, the board shall immediately suspend the
24 licensee's or permittee's license or permit. The suspension may be
25 ordered even if the conviction resulted from a pleas of nolo con-
26 tendere or if the conviction is under appeal. The suspension remains
27 in effect until after the final disposition of the disciplinary pro-
28 ceeding under this section.

29 Sec. 08.54.510. DISCIPLINE; GENERAL PROVISIONS. (a) A person
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1 who is disciplined under AS 08.54.500 or 08.54.505 may not engage in
2 the provision of big game commercial services during the period of
3 license or permit revocation or other disciplinary action. A person
4 who is licensed under this chapter, or who holds a permit issued under
5 this chapter, may not hire a person whose license or permit to provide
6 big game commercial services is suspended or revoked under AS 08.54.-
7 500 or 08.54.505. A person whose license or permit is suspended or
8 revoked may not be employed by a person who is licensed or who holds a
9 permit under this chapter.

10 (b) If the board revokes a license or permit under AS 08.54.500
11 or 08.54.505, the person whose license or permit has been revoked
12 shall surrender immediately the license or permit to the department.

13 (c) A certified copy of a judgment of conviction of a licensee
14 or permittee for an offense is conclusive evidence of the commission
15 of that offense in a disciplinary proceeding instituted against the
16 licensee or permittee under AS 08.54.500 or 08.54.505 based on that
17 conviction, regardless of whether the conviction resulted from a plea
18 of nolo contendere or the conviction is under appeal, unless the
19 conviction is overturned on appeal.

20 (d) Within 30 days after conclusion of a hearing under AS 08.-
21 54.500 or 08.54.505, the board shall notify the complainant of the
22 results of the hearing, including written reasons justifying a deci-
23 sion not to take disciplinary action.

24 Sec. 08.54.520. UNLAWFUL ACTS. (a) It is unlawful for a

25 (1) person who is licensed or who holds a commercial use
26 permit under this chapter to knowingly fail to timely report to the
27 Department of Public Safety, division of fish and wildlife protection,
28 and in no event later than 30 days, a violation of a state fish, game,
29 or big game commercial services statute or regulation that the person

1 reasonably believes was committed by a client or an employee of the
2 person;

3 (2) person who is licensed or who holds a commercial use
4 permit under this chapter to knowingly

5 (A) commit or aid the commission of a violation of
6 this chapter, a regulation adopted under this chapter, or a state
7 fish or game statute or regulation; or

8 (B) permit the commission of a violation of this
9 chapter, a regulation adopted under this chapter, or a state fish
10 or game statute or regulation that the person knows or reasonably
11 believes is being or will be committed without

12 (i) attempting to prevent it, short of using
13 force; and

14 (ii) reporting it;

15 (3) person without a current commercial use permit issued
16 under this chapter to knowingly provide big game commercial services;

17 (4) person who is licensed or who holds a commercial use
18 permit issued under this chapter to intentionally obstruct or hinder
19 or attempt to obstruct or hinder lawful hunting engaged in by a person
20 who is not a client of the person;

21 (5) class-A assistant guide-outfitter or an assistant
22 guide-outfitter to knowingly guide-outfit a hunt except while employed
23 and supervised by a guide-outfitter;

24 (6) person who holds any class of guide-outfitter license
25 to knowingly enter or remain unlawfully on state, federal, or private
26 land without prior authorization during the course of providing guide-
27 outfitting services;

28 (7) person to knowingly guide-outfit without having a
29 current guide-outfitter, marine mammal guide-outfitter, class-A

1 assistant guide-outfitter, or assistant guide-outfitter license and
2 hunting license in actual possession;

3 (8) person without a current guide-outfitter or marine
4 mammal guide-outfitter license to knowingly advertise as or represent
5 to be a guide-outfitter;

6 (9) person to knowingly provide transportation services to
7 big game hunters without holding a transporter license;

8 (10) class-A assistant guide-outfitter or an assistant
9 guide-outfitter to knowingly contract for a hunt; or

10 (11) person to knowingly engage in a big game commercial
11 services activity during the period for which the person's license to
12 conduct that activity is suspended or revoked.

13 (b) A person who commits an offense set out in (a)(1) - (6) of
14 this section is guilty of a misdemeanor and is punishable by a fine of
15 not more than \$30,000 or by imprisonment for not less than two months
16 or more than one year, or both.

17 (c) A person who commits an offense set out in (a)(7) - (10) of
18 this section is guilty,

19 (1) for a first offense, of a misdemeanor and is punishable
20 by a fine of not more than \$30,000 or by imprisonment for not less
21 than two months or more than one year, or both;

22 (2) for a second or subsequent offense, of a class C fel-
23 ony.

24 (d) A person who violates (a)(11) of this section, is guilty of
25 a class C felony.

26 (e) In addition to the penalties set out in (b), (c) and (d) of
27 this section,

28 (1) the court may revoke the person's license to provide
29 guide-outfitting or transportation services for not more than five

1 years; and

2 (2) all guns, fishing tackle, boats, aircraft, automobiles
3 or other vehicles, camping gear, and other equipment and paraphernalia
4 used in, or in aid of, a violation of (a) of this section may be
5 seized by persons authorized to enforce this chapter and may be for-
6 feited to the state as provided under AS 16.05.195.

7 (f) Upon conviction of a person for committing an offense set
8 out in (a) of this section, the execution of sentence may not be
9 suspended and probation may not be granted except on the condition
10 that the minimum term of imprisonment is served. Imposition of sen-
11 tence may not be suspended.

12 Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the
13 judgment of the board a person has engaged in an act in violation of
14 AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and 08.54.-
15 520 or the regulations adopted under them, the board may apply to the
16 appropriate court for an order enjoining the action. Upon a showing
17 by the board that the person is engaging in the act, the court shall
18 grant injunctive relief or other appropriate order without bond.

19 Sec. 08.54.540. RESPONSIBILITY OF GUIDE-OUTFITTER FOR VIOLA-
20 TIONS. A guide-outfitter who contracts to guide-outfit a hunt is
21 equally responsible under AS 08.54.500 for a violation of a federal or
22 state game or guide-outfitting statute or regulation committed by a
23 class-A assistant guide-outfitter or an assistant guide-outfitter
24 while in the course of the class-A assistant guide-outfitter's or
25 assistant guide-outfitter's employment for the guide-outfitter.

26 ARTICLE 7. GENERAL PROVISIONS.

27 Sec. 08.54.550. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS
28 AND ACTIVITY REPORTS. (a) The department shall collect and maintain
29 hunt records provided by guide-outfitters or marine mammal

1 guide-outfitters. A hunt record must include a list of all big game
2 hunters who used the services of the guide-outfitter or marine mammal
3 guide-outfitter, the number of each big game species taken, and other
4 information required by the board. The department shall provide forms
5 for reporting hunt records.

6 (b) The department shall make hunt records, and activity reports
7 received under AS 08.54.400, available to state and federal agencies
8 charged with the enforcement of statutes and regulations relating to
9 guide-outfitting or game or with management of game if requested for
10 game management or law enforcement purposes. Aggregated data compiled
11 from hunt records and activity reports may be included in reports by
12 the department. For all other purposes, the hunt records and activity
13 reports are confidential and are not subject to inspection or copying
14 under AS 09.25.110 - 09.25.125.

15 Sec. 08.54.590. DEFINITIONS. In this chapter

16 (1) "base camp" means a guide-outfitter's or marine mammal
17 guide-outfitter's primary base of operations in the field; "base camp"
18 does not include a spike camp;

19 (2) "big game" means brown bear, grizzly bear, polar bear,
20 caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain
21 goat, musk-ox, wolf, wolverine, mountain or Dall sheep, and walrus;

22 (3) "big game commercial hunting service" means a service
23 for which the provider of the service must obtain a guide-outfitter,
24 marine mammal guide-outfitter, class-A assistant guide-outfitter, or
25 assistant guide-outfitter license;

26 (4) "big game commercial service" means a service for which
27 the provider of the service must obtain a commercial use permit;

28 (5) "board" means the Big Game Commercial Services Board;

29 (6) "compensation" means payment for services including

1 wages or other remuneration but not including reimbursement for actual
2 expenses incurred;

3 (7) "department" means the Department of Commerce and
4 Economic Development;

5 (8) "enter or remain unlawfully" has the meaning given in
6 AS 11.46.350(a);

7 (9) "game management unit" means one of the 26 geographic
8 areas defined by the Board of Game for game management purposes;

9 (10) "guide-outfit" means to provide, for compensation or
10 with the intent or with an agreement to receive compensation, big game
11 commercial hunting services in the field; "guide-outfit" includes
12 accompanying or being present with a big game hunter in the field
13 either personally or through an assistant; "guide-outfit" does not
14 include the provision of transportation to, from, or in the field if
15 the person providing the transportation and the person being trans-
16 ported do not stalk, pursue, track, kill, or attempt to kill big game
17 during the provision of transportation;

18 (11) "field" means an area outside of established year-round
19 dwellings, businesses, or other developments usually associated with a
20 city, town, or village; "field" does not include permanent hotels or
21 roadhouses on the state road system or state or federally maintained
22 airports;

23 (12) "spike camp" means a camp in the field other than a
24 base camp and includes a fly camp or an overnight camp;

25 (13) "transportation services" means the carriage for com-
26 pensation of big game hunters, their equipment, or big game animals
27 harvested by hunters to, from, or in the field; "transportation ser-
28 vices" does not include the carriage by aircraft of big game hunters,
29 their equipment, or big game animals harvested by hunters

1 (A) on nonstop flights between state or federally
2 maintained airports; or

3 (B) by an air taxi operator or air carrier for which
4 the carriage of big game hunters, their equipment, or big game
5 animals harvested by hunters is only an incidental, as defined by
6 the board, portion of its business;

7 (14) "unethical activity" means

8 (A) deception or misrepresentation involving prospec-
9 tive or actual clients either before, during, or following the
10 provision of big game commercial services, including misrepresen-
11 tations through private or public advertising of the type, dura-
12 tion, cost, or conditions of the services;

13 (B) making a guaranty that a species or certain number
14 of species of game will be taken on a hunt;

15 (C) engaging in unsafe or unsportsmanlike activities
16 that are detrimental to the game resources of the state, as
17 defined by regulations of the board, including violations of
18 state hunting or big game commercial services statutes or regu-
19 lations; or

20 (D) accepting a deposit for big game commercial ser-
21 vices without providing before the services are rendered a signed
22 written contract to provide the services.

23 * Sec. 4. AS 12.55.125(c) is amended to read:

24 (e) A defendant convicted of a class C felony may be sentenced
25 to a definite term of imprisonment of not more than five years, and
26 shall be sentenced to the following presumptive terms, subject to
27 adjustment as provided in AS 12.55.155 - 12.55.175:

28 (1) if the offense is a second felony conviction, two
29 years;

1 (2) if the offense is a third felony conviction, three
2 years;

3 (3) if the offense is a first felony conviction, and the
4 defendant knowingly directed the conduct constituting the offense at a
5 uniformed or otherwise clearly identified peace officer, fire fighter,
6 correctional officer, emergency medical technician, paramedic, ambu-
7 lance attendant, or other emergency responder who was engaged in the
8 performance of official duties at the time of the offense, one year;

9 (4) if the offense is a first felony conviction, and the
10 defendant violated AS 08.54.520(a)(7) - (10), one year.

11 * Sec. 5. AS 16.05.407(a) is amended to read:

12 (a) It is unlawful for a nonresident to hunt, pursue, or take
13 brown bear, grizzly bear, polar bear, mountain goat, or sheep in this
14 state, unless personally accompanied by

15 (1) a person who is licensed as a guide-outfitter, [MASTER
16 GUIDE, REGISTERED GUIDE,] class-A assistant guide-outfitter, [GUIDE]
17 or assistant guide-outfitter [GUIDE] by the Big Game Commercial Ser-
18 vices [GUIDE] Board; or

19 (2) a resident over 19 years of age who is

20 (A) the spouse of the nonresident; or

21 (B) is related to the nonresident, within and includ-
22 ing the second degree of kindred, by marriage or blood.

23 * Sec. 6. AS 6.05.407(d) is amended to read:

24 (d) A nonresident who violates (a) of this section, or who fails
25 to furnish an affidavit under (b) [OR (e)] of this section, is guilty
26 of a misdemeanor and upon conviction is punishable by imprisonment for
27 not more than one year, or by a fine of not more than \$5,000, or by
28 both.

29 * Sec. 7. AS 16.05.408(a) is amended to read:

1 (a) It is a class A misdemeanor for a nonresident alien

2 (1) to hunt, pursue, or take marine mammals unless person-
3 ally accompanied by a licensed marine mammal guide-outfitter [GUIDE];
4 or

5 (2) to hunt, pursue, or take a big game animal as defined
6 by the Board of Game unless personally accompanied by a guide-outfit-
7 ter [LICENSED MASTER GUIDE, REGISTERED GUIDE,] or class-A assistant
8 guide-outfitter licensed [GUIDE] under AS 08.54.

9 * Sec. 8. AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.783. PROHIBITION. (a) A hunting club may not

11 (1) engage in activities in direct support of big game
12 hunting, including transportation or guide-outfitting of big game
13 hunters; or

14 (2) provide facilities or services for big game hunting.

15 (b) In this section "hunting club" means

16 (1) an organization that offers use of property or services
17 to individuals who pay a membership fee for the privilege of using the
18 property or services for hunting; or

19 (2) a partnership, limited partnership, corporation, or
20 unincorporated association through which property is jointly owned,
21 leased, or otherwise held by members of the entity and through which
22 the members are entitled to use the property for hunting.

23 * Sec. 9. AS 39.50.200(b)(48) is amended to read:

24 (48) Big Game Commercial Services [GUIDE] Board AS 08.54.-
25 300 [(AS 08.54.010)]; and

26 * Sec. 10. AS 41.23.420(d) is amended to read:

27 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the
28 authority of

29 (1) the Department of Fish and Game, the Board of

1 Fisheries, the Board of Game, or the Big Game Commercial Services
2 [GUIDE LICENSING AND CONTROL] Board under AS 08.54, AS 16, or AS
3 41.99.010;

4 (2) the Department of Environmental Conservation under AS
5 46.03; or

6 (3) state agencies and municipalities under AS 44.19.145(a)-
7 (11) and AS 46.40.100.

8 * Sec. 11. AS 44.62.330(a)(35) is amended to read:

9 (35) Big Game Commercial Services [GUIDE LICENSING AND
10 CONTROL] Board

11 * Sec. 12. TRANSITION: GUIDE-OUTFITTER LICENSES. (a) Notwithstanding
12 the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.-
13 54.010 - 08.54.240 are valid for the period for which the licenses were is-
14 sued.

15 (b) For the purposes of AS 08.54.300 - 08.54.590 as enacted by sec. 3
16 of this Act, until new licenses are issued under this section, a

17 (1) master guide license issued under former AS 08.54.100 and a
18 registered guide license issued under former AS 08.54.110 shall be con-
19 sidered a guide-outfitter license issued under AS 08.54.350;

20 (2) class-A assistant guide license issued under former AS 08.-
21 54.120 shall be considered a class-A assistant guide-outfitter license
22 issued under AS 08.54.380;

23 (3) an assistant guide license issued under former AS 08.54.140
24 shall be considered an assistant guide-outfitter license issued under
25 AS 08.54.390.

26 (c) At the time of the next license renewal following the effective
27 date of this Act, each person licensed as

28 (1) a master guide shall receive a master guide-outfitter li-
29 cense if the person

1 (A) is in good standing at the time of issuance of the
2 license; and

3 (B) has paid the guide-outfitter license fee and the com-
4 mercial use permit fee;

5 (2) a registered guide shall receive a guide-outfitter license
6 if the person

7 (A) is in good standing at the time of issuance of the
8 license; and

9 (B) has paid the guide-outfitter license fee and the com-
10 mercial use permit fee;

11 (3) a class-A assistant guide shall receive a class-A assistant
12 guide-outfitter license if the person

13 (A) is in good standing at the time of issuance of the
14 license; and

15 (B) has paid the class-A assistant guide-outfitter license
16 fee;

17 (4) an assistant guide shall receive an assistant guide-out-
18 fitter license if the person

19 (A) is in good standing at the time of issuance of the
20 license; and

21 (B) pays the assistant guide-outfitter license fee.

22 (d) Notwithstanding (c) of this section, the Department of Commerce
23 and Economic Development may issue a new license under AS 08.54.300 -
24 08.54.590, without an additional fee, to a person licensed under former
25 AS 08.54.010 - 08.54.240 before the next renewal period following the
26 effective date of this Act, if the person satisfies the requirements for
27 the license and the license is valid only for the same period for which the
28 replaced license was issued.

29 * Sec. 13. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350,

1 as enacted by sec. 3 of this Act, a natural person is entitled to receive a
2 guide-outfitter license if the person

3 (1) applies on a form provided by the Department of Commerce and
4 Economic Development;

5 (2) lawfully registered a camp, cabin, or lodge under AS 16.-
6 05.787 during 1988;

7 (3) provides evidence satisfactory to the Big Game Commercial
8 Services Board that the person has legally engaged in the business of big
9 game outfitting in 1986, 1987, and 1988;

10 (4) passes the guide-outfitter examination administered by the
11 Big Game Commercial Services Board within two years after the effective
12 date of this Act;

13 (5) has not been convicted of violating a state or federal game
14 or guide-outfitting statute or regulation during the previous five years
15 for which the person was fined more than \$500 or imprisoned for more than
16 five days;

17 (6) has legally hunted in the state for part of each of any five
18 years in a manner directly contributing to the person's experience and
19 competency as a guide-outfitter;

20 (7) has been favorably recommended in writing by six big game
21 hunters, two for each year of the person's most recent three years as a big
22 game outfitter, whose recommendations have been solicited by the Big Game
23 Commercial Services Board from a list provided by the applicant;

24 (8) pays the guide-outfitter license fee and the commercial use
25 permit fee; and

26 (9) possesses a business license to provide recreational ser-
27 vices.

28 (b) A person who is denied a guide-outfitter license under (a) of
29 this section by the Big Game Commercial Services Board may appeal to the
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1 commissioner of commerce and economic development. The commissioner may
2 order that the applicant be allowed to take the license examination or be
3 issued the license if, after reviewing a petition filed by the applicant,
4 the commissioner finds that

5 (1) the board denied the applicant an opportunity to take the
6 license examination or refused to approve issuance of the license;

7 (2) the board's denial or refusal has been upheld by a final
8 administrative order and the order has not been appealed to the superior
9 court under AS 44.62.560;

10 (3) the board's denial or refusal was based on

11 (A) an error of fact by the board; or

12 (B) the applicant's failure of the license examination due
13 to faulty or unfair examination questions or procedures;

14 (4) the applicant is otherwise qualified to take the examination
15 or to be issued the license; and

16 (5) sustaining the board's denial or refusal would work a sub-
17 stantial injustice on the applicant.

18 (c) A guide-outfitter license issued under (a) of this section is for
19 all purposes a license issued under AS 08.54.350, as enacted by sec. 3 of
20 this Act.

21 (d) A person who satisfies (a)(1) - (3) of this section, holds a
22 business license as a big game outfitter, and pays a license fee set by the
23 Department of Commerce and Economic Development and the commercial use
24 permit fee is entitled to receive an interim outfitter license pending a
25 final determination of a person's eligibility for a guide-outfitter license
26 under (a) of this section. The right to receive and hold an interim out-
27 fitter license terminates on the earlier of

28 (1) the date of issuance of a guide-outfitter license to the
29 person;

1 (2) a final determination under (a) of this section that the
2 person is not eligible to receive a guide-outfitter license; or

3 (3) two years from the effective date of this Act.

4 (e) A person who holds an interim outfitter license, notwithstanding
5 contrary provisions of AS 08.54, may provide transportation to, from, and
6 in the field to big game hunters and supply other services in the field to
7 big game hunters. The person may not provide guiding services.

8 (f) A person who holds an interim outfitter license shall promptly
9 report to the Department of Public Safety, division of fish and wildlife
10 protection, but not later than 30 days after the violation, a violation of
11 a state fish, game, or big game commercial services statute or regulation
12 that the person reasonably believes was committed by a client or employee
13 of the person.

14 (g) A person who holds an interim outfitter license may accompany or
15 be present with a hunter at a base camp, cabin, or permanent lodge in
16 connection with a big game hunt for compensation only if the person has
17 furnished an affidavit to the Department of Public Safety, division of fish
18 and wildlife protection, at least two weeks in advance. The person may not
19 register more than two base camps. The affidavit must be signed by the
20 person and must provide the following information:

21 (1) the specific location of the camp, cabin, or lodge;

22 (2) the number of big game hunters in each party that will use
23 the camp, cabin, or lodge; and

24 (3) the kinds or species of big game that will be hunted.

25 (h) A person who furnishes an affidavit under (g) of this section
26 shall notify the Department of Public Safety of the amount and kinds or
27 species of big game taken by each hunter who uses the base camp, cabin, or
28 permanent lodge to which the affidavit relates. Notice shall be given
29 within 30 days after the game is taken. The Department of Public Safety

1 shall provide the information received under this subsection to the Depart-
2 ment of Fish and Game.

3 (i) A person who

4 (1) violates (f) of this section is guilty of a misdemeanor and
5 upon conviction is punishable by a fine of not more than \$2,000 or by
6 imprisonment for not more than one year, or by both; or

7 (2) falsifies an affidavit under (g) of this section is guilty
8 of unsworn falsification under AS 11.56.210.

9 (j) In this section,

10 (1) "base camp" does not include spike camp, fly camp, or over-
11 night camp;

12 (2) "big game" and "field" have the meaning given in AS 08.54.-
13 590, as enacted by sec. 3 of this Act;

14 (3) "guiding" means accompanying or being present with a big
15 game hunter in the field, personally or through an assistant, for compen-
16 sation or with the intent or an agreement to receive compensation; "guid-
17 ing" does not include

18 (A) providing transportation to or from the field, if the
19 person providing transportation and the persons being transported do
20 not stalk, pursue, track, kill, or attempt to kill big game during the
21 transportation; or

22 (B) selling, leasing, or renting goods, if the transaction
23 does not take place in the field;

24 (4) "outfitting" means the provision of services, other than
25 guiding services, to big game hunters in the field for compensation.

26 * Sec. 14. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD.
27 Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the
28 initial appointments to the Big Game Commercial Services Board under

29 (1) AS 08.54.300(b)(1) may also be filled by the appointment of

1 a master guide or registered guide licensed under former AS 08.54.010 -
2 08.54.240 or a person who lawfully registered a camp, cabin, or lodge under
3 AS 16.05.787 during 1988 and legally engaged in the business of big game
4 outfitting in 1986, 1987, and 1988;

5 (2) AS 08.54.300(b)(2) may also be filled by the appointment of
6 a person who engaged in the business of providing transportation to big
7 game hunters in 1986, 1987, and 1988.

8 * Sec. 15. TRANSITION. Litigation, hearings, investigations, and other
9 proceedings pending under a law amended or repealed by this Act continue in
10 effect and may be continued and completed notwithstanding an amendment or
11 repeal provided for in this Act. Licenses, orders, and regulations issued
12 or adopted under authority of a law amended or repealed by this Act remain
13 in effect for the term issued or until revoked, vacated, or otherwise
14 modified under the provisions of this Act.

15 * Sec. 16. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045,
16 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.-
17 130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180,
18 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220, 08.54.-
19 230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.786, and
20 16.05.787 are repealed.

21 * Sec. 17. Sections 4, 6, 12, and 13, ch. 160, SLA 1988 are repealed.

22 * Sec. 18. AS 08.54.310(b)(1), as enacted by sec. 3 of this Act, takes
23 effect on the earlier of

24 (1) January 15, 1990; or

25 (2) the date of submission to the legislature of a recom-
26 mendation by the Task Force on Guiding and Game for a resource-based
27 management system for allocating access to big game hunting opportuni-
28 ties among guide-outfitters licensed under AS 08.54.

29 * Sec. 19. Except for AS 08.54.310(b)(1), as enacted by sec. 3 of this
CSHB 112(Res)

1 Act, this Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

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March 2, 1989

The Honorable Bettye Fahrenkamp
Resources Committee Chair
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

The Honorable Cliff Davidson
The Honorable Curt Menard
Resources Committee Co-Chairs
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp and Representatives Davidson and Menard:

The Criminal Division of the Department of Law has carefully reviewed the sections of the HB 112 and SB 140 that relate to imposition of criminal penalties. We see a number of potential problems with the bills as presently drafted, and would respectfully request that you consider adoption of the amendments outlined in this letter.

I. Mens Rea Not Specified

A. Discussion of Problem

The proposed AS 08.54.520 outlines a number of criminal acts, however, the statute does not specify an accompanying mental state or level of criminal intent. The Alaska Supreme Court has repeatedly expressed its aversion to the imposition of criminal sanctions in the absence of proof that an offender was aware or conscious of some wrongdoing.¹

In analyzing the effect of the above-cited cases, the Supreme Court in Reynolds v. State, 655 P.2d 1313, 1315 (Alaska App. 1982) stated: "The teaching of these cases is that strict liability is an exception to the rule that criminal intent is required. The decision whether to require that a mental state be

¹See, e.g. Speidel v. State, 460 P.2d 77, 78 (Alaska 1969); Hentzner v. State, 613 P.2d 821 (Alaska 1980); State v. Rice, 626 P.2d 104 (Alaska 1981).

read into a statute or regulation, even in the context of fish and game violations, must be made on a case-by-case basis." (emphasis added).

In order to avoid having to litigate the appropriate mental state in every instance that a prosecution is brought for unlawful guiding activities, the level of criminal intent should be specified for each listed unlawful act. As proposed, only one section, 08.54.520(a)(4), specifies a mental state by requiring proof of intentional behavior.

B. Proposed Amendments to Provide for Mens Rea

1. Page 17, line 1, following "chapter to":
Insert "knowingly"
2. Page 17, line 7, following "to":
Insert "knowingly"
3. Page 17, line 19, following "to":
Insert "knowingly"
4. Page 17, line 25, following "transporter to":²
Insert "knowingly"
5. Page 17, line 28, following "to":
Insert "knowingly"
6. Page 18, line 2, following "to":
Insert "knowingly"
7. Page 18, line 7, following "license to":
Insert "knowingly"
8. Page 18, line 9, following "person to":
Insert "knowingly"
9. Page 18, line 12, following "to":
Insert "knowingly"
10. Page 18, line 13, following "to":
Insert knowingly

²This amendment is unnecessary if, as proposed in Section IV below, the bill section set out at page 17, lines 24 - 26 is deleted.

II. Appropriate Definitions Not Provided

A. Discussion of Problem

A number of key terms are not defined in the proposed legislation. The lack of definition may lead to claims that the statute does not provide adequate notice of prohibited activities, may inappropriately make some persons subject to criminal prosecution, and may cause legal problems during trials of criminal charges brought under the statute.

As an example of the potential problems faced by prosecutors, under proposed AS 08.54.520(a)(9), it is unlawful for a person "to provide transportation services to big game hunters without holding a transporter license." Transportation services is defined in proposed AS 08.54.590 (6) to mean, "carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field." Compensation is not defined.

In prosecutions under existing guiding statutes, trial courts have taken divergent views on the definition of compensation. In one Anchorage case, Judge Carlson defined compensation as "payment for services including wages or other remuneration." If this definition were applied, a friend or relative transporting someone into the field in exchange for gasoline could be subject to criminal prosecution. In another Anchorage case, Judge Rowland defined compensation as above, however, gave a separate instruction that "compensation does not include reimbursement for actual expenses incurred." If this definition were applied, the friend or relative mentioned above would not have violated the law. The legislature needs to spell out its intent by defining the term "compensation."

B. Terms That Need Definition

Although we have identified terms that need definition, the Criminal Division does not have the practical expertise to prepare definitions for the listed terms. We are, however, working with the Division of Wildlife Conservation and the Division of Occupational Licensing to help develop adequate definitions.

Page 12, line 9:	"expediter services"
Page 17, line 19:	"big game commercial services"
Page 18, line 13:	"big game commercial services"
Page 21, line 9:	"big game commercial services"
Page 21, lines 19-20:	"big game commercial services":

Page 17, line 28: "guide-outfitting services"³
Page 18, line 2: "guide-outfitter services"
Page 20, lines 25-6: "big game commercial hunting
services"⁴
Page 20, line 26: "compensation"
Page 21, lines 3-4: "compensation"

III. Inadequate Definition of "Field"

A. Discussion of Problem

Although a definition of field is provided, the definition does not address the issue of activities occurring in a base camp. In past prosecutions for illegal guiding, the courts have allowed a defense that activities taking place in a base camp are not prohibited since a base camp is not "in the field."⁵ The

³Since "guide-outfit" is defined in 08.54.590(4), instead of providing a separate definition for "guide-outfitting services," it may make more sense to rewrite the paragraphs in which the term is used as follows:

Page 17, lines 27 - 29, and page 18, line 1:
(6) class-A guide-outfitter or an assistant guide-outfitter to knowingly guide-outfit [PROVIDE GUIDE-OUTFITTING SERVICES] in the field on a guided-outfitted hunt except while employed and supervised by a guide-outfitter;

Page 18, lines 2 - 5:
(7) person to knowingly guide-outfit [PROVIDE GUIDE-OUTFITTER SERVICES] without having a current guide-outfitter, marine mammal guide-outfitter, class-A guide-outfitter, or assistant guide-outfitter license and hunting license in actual possession;

⁴For consistency, it may make sense to change this reference from "big game commercial hunting services" to "big game commercial services."

⁵For example, in the Zedlar case, Judge Rowland gave the following two instructions,

definition of "field" needs to address to what extent base camp activities are covered, and to provide a definition of "base camp."

B. Proposed Amendment to Definition of "Field"

Page 21, line 1, following "village":

Insert ", including a base camp"

*field clearly
includes
base camp*

IV. Fairness of Penalty in AS 08.54.520(a) (5)

A. Discussion of Problem

Under AS 08.54.520(a) (5), a person who fails to transmit to the department big game conservation fees due under AS 16.05.344, is guilty of a misdemeanor punishable by a fine up to \$30,000 and a jail sentence of two months to one year. This is an inappropriately stiff penalty for failure to submit fees, and does not fit in with penalties provided in other instances where a person fails to remit fees to the state.⁶ After considering this

"Guide" or "Guiding" does not include providing food, shelter, supplies, ammunition, transportation, preparation of trophies, salvaging of meat, and/or assisting, accompanying or directing a hunter in arriving at or departing from a base camp, even if for compensation or with the intent or an agreement to receive compensation.

A base camp is that location at which an outfitter conducts his business in providing outfitting services to clients. The base camp may be located in the hunting area, and the client and the outfitter can leave the base camp and be in the hunting field so long as the outfitter is not guiding.

In reviewing the legislation, there seems to be an intent to criminalize many of the activities exempted by Judge Rowland in the above instructions.

⁶For example, a comparable situation is presented in the case of a person who collects fees for fish and game licenses and fails to remit the fees to the state. This situation is addressed in a bill presently being considered by the legislature, HB 76, which provides that a person failing to remit license fees is assessed a penalty of one and one-half percent of the amount of the proceeds due, with the penalty assessed for each month that the proceeds are delinquent.

issue, representatives of executive branch agencies agreed that an adequate way to enforce payment of big game conservation fees would be to make renewal of a guide-outfitter or transporters license contingent on payment.

B. Proposed Amendments to Enforce Collection of Big Game Conservation Fees

1. Page 17, lines 24 - 26

Delete all material.
Renumber the following sections accordingly.

2. Page 22, line 13, following "license."

Insert "A license may not be renewed unless all fees due under this section have been paid."

V. Creation of Nonconforming Penalties

A. Discussion of Problem

Over the past ten years, a great deal of effort has gone into developing and passing laws that set out a uniform sentencing scheme in Alaska. Under this scheme, offenses are categorized by the level of seriousness, and punished accordingly. Before the new sentencing scheme, the state had a mixed bag of felony and misdemeanor sentences, none of which necessarily fell into any logical scheme or plan.

Under proposed AS 08.54.520(c) and (d), penalties are set out that do not fall into the existing sentencing structure. We are very concerned about setting a precedent for creation of new types of felonies, and would prefer that the penalties stay within the existing structure. The problems presented by this approach are easiest to understand in the context of felony prosecutions. For example, since the felony provided is neither an A, B, or C felony, it is unclear how it would fit into the presumptive sentencing scheme.

An easy way to solve the problem would be to amend the language of (c)(2) and (d) to simply say that a person is guilty of a class C felony. The penalty for a class C felony is a fine of not more than \$50,000 and a jail term of not more than five years.

B. Proposed Amendments to Conform Felony Penalties⁷

1. Page 18, lines 25 - 27:

Delete all material and insert:

"(2) for a second or subsequent offense, or a Class C felony."

2. Page 21, following line 21:

Insert a new bill section to read:

"*Sec. 4. AS 12.55.125(e) is amended by adding a new paragraph to read:

(4) if the offense is a first felony conviction, and the defendant violates AS 08.54.520(c), one year."

Renumber the following bill sections accordingly.

VI. Technical Amendment to Unlawful Acts Section

A. Discussion of Problem

In its joint position paper, the administration has previously proposed an amendment to clarify that the intent of the bill is to limit the court's sentencing discretion in cases involving unlawful acts by big game commercial services providers. However, the proposed amendment may have the effect of limiting the court's ability to place a guide on probation for a period in excess of the mandatory minimum jail term.

B. Proposed Technical Amendment

Page 19, lines 12 -14:

Delete all material and insert:

"(f) Upon conviction of a person for committing an offense set out in (a) of this section, the execution of sentence may not be suspended nor may probation be granted except on

⁷The proposed amendments incorporate the previously suggested changes to HB 112 and SB 140 contained in the "Joint Department Position Paper on SB 140" and discussed on page 8 of the position paper.