

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6062 HOUSE RESOURCES

866

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: Department of Health & Social Services
Mailing Address: Bureau of Vital Statistics
PO Box 111
Juneau Ak 99811-0675
Agency Contact: Jean P. Brook, State Registrar
Telephone: 465-3392

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?

Yes

No

If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?

Yes

No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?

Yes

No

If no, please list those statutes, regulations or procedures that do not comply:

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: AK DEPT. OF LABOR
Mailing Address: EMPLOYMENT SECURITY DIVISION
P.O. Box 3-7000
JUNEAU AK 99802
Agency Contact: EDWARD MUSSLERUTZ
Telephone: 465-2712

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?
 Yes No If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?
 Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?
 Yes No If no, please list those statutes, regulations or procedures that do not comply:

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: Dept. of Labor
Mailing Address: P.O. Box 21149
Tuneau, AK. 99802
Agency Contact: Commissioner Sampson
Telephone: 465-2700

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?
 Yes No If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?
 Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?
 Yes No If no, please list those statutes, regulations or procedures that do not comply:

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: Department of Law

Mailing Address: 1031 W. 4th, Suite 200
Anchorage, Alaska 99501

Agency Contact: Assistant Attorney General Mark P. Worcester

Telephone: (907) 277-8661

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?

 Yes X No If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?

 Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?

 Yes No If no, please list those statutes, regulations or procedures that do not comply:

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

DEPARTMENT OF
NATURAL RESOURCES

DEC 22 1988

COMMISSIONER'S OFFICE
JUNEAU

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: _____
Mailing Address: Dept. of Military & Veterans Affairs
3601 C St.; Suite 620
Anchorage, AK 99503-5989
Agency Contact: Charles T. Borg
Telephone: 249-1565

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?
 Yes No If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?

Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?

Yes No If no, please list those statutes, regulations or procedures that do not comply:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: Department of Public Safety
Mailing Address: P.O. Box N
Juneau, AK 99801
Agency Contact: Gayle Foretski, Depty Commissioner
Telephone: 465-4322

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?
 Yes X No If no, when additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?

 Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?

 Yes No If no, please list those statutes, regulations or procedures that do not comply:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

Minerals Policy Act Compliance Form
as required by AS 44.99.110

Department/Board/Commission Name: Department of Transportation & Public Facilities
Mailing Address: Alaska Marine Highway System
P.O. Box R
Juneau, Alaska 99811
Agency Contact: June M. Arkoulis-Sinclair
Telephone: (907) 465-3950

Please complete the following information requests:

1. Does your agency have statutory authority, regulations or procedures applicable to mineral exploration and development?

Yes No If no, then additional information is not required. Return form to DNR in the pre-addressed envelope provided.

2. Please list those statutes and regulations which are applicable to mineral exploration and development:

3. Does your agency have written procedures (not including statutes and regulations) applicable to mineral exploration and development?

Yes No

4. Do your agencies statutes, regulations and procedures comply with Section 1 of the Minerals Policy Act?

Yes No If no, please list those statutes, regulations or procedures that do not comply:

Please return this completed form to the Department of Natural Resources in the pre-addressed envelope provided. Thank you.

S B

184

HOUSE COMMITTEE REPORT

(9)

Date Referred: May 2, 1989

FURTHER REFERRALS:

Date of Committee Action: 5-5-89

The RESOURCES Committee considered:

CSSB 184 (FIN)

CS FOR SENATE BILL NO. 184 (Finance)

[REDOUBT BAY CRITICAL HABITAT AREA]

"An Act establishing the Redoubt Bay Critical Habitat Area; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CS SB 184 (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):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) 7+6/DNR 4/17

zero with analysis _____

zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		<input checked="" type="checkbox"/>	

[Signature]
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 3-Mar-89 Agency Affected: Natural Resources
 Title: Redoubt Bay Critical habitat Area BRU: Land & Water Management
 Sponsor: Fischer Components: Land & Water Mgt
 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)

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 3-Mar-89
 Approved by Commissioner: Lennie Gorsuch Date: 3-Mar-89
 Agency: Department of Natural Resources

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

Changes in the CS (Fin) have no
 fiscal effect. This fiscal note
 is appropriate. SFC: 4/27/89

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: ADFC
 Title: Redoubt Bay Critical
Habitat Area BRU: _____
 Sponsor: Senator Fischer Components: _____
 Requester: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		0				
TRAVEL)				
CONTRACTUAL)				
SUPPLIES)				
EQUIPMENT)				
LAND & STRUCTURES)				
GRANTS, CLAIMS)				
MISCELLANEOUS)				
TOTAL OPERATING		0				
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Frank Rue, Director *Ellen Butts for FR* Phone: 465-4105
 Division: Habitat Date: 3/22/89
 Approved by Commissioner: *Orville Bellinwright* Date: 3.2.89
 Agency: Dept. of Fish and Game

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

Changes in the CS (Fin) have no fiscal effect. This fiscal note is appropriate. *W* SFC: 4/27/89

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

May 4, 1989

The Honorable Curt Menard
Chair, House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

Subject: SB 184, An act establishing the Redoubt Bay Critical Habitat Area, and providing for an effective date.

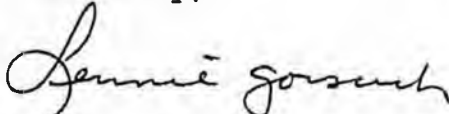
Background: SB 184 creates a critical habitat area at Redoubt Bay.

Position: The Department of Natural Resources does not oppose this legislation. The bill recognizes present and future oil and gas development and potential in the area. However, we suggest the area below mean lower low water should be deleted. We therefore submit the following change:

Section 2, AS 16.20.610(a) line two, after "state owned land and water" insert "above mean lower low water"

Thank you for the opportunity to comment. As always, my staff is available if you have questions.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Senator Paul Fischer
Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Commissioner Don W. Collinsworth
Department of Fish and Game

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

TO: Representatives Cliff Davidson and
Curt Menard, Co-Chairmen
House Resources Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Committee Substitute for Senate Bill 184 (Finance)
(establishing Redoubt Bay Critical Habitat Area)

DATE: May 2, 1989

I would appreciate your scheduling the above referenced bill before the House Resources Committee at your earliest possible convenience.

As you are aware, similar legislation received considerable review during the Fifteenth Legislature. Yesterday, it passed the Senate unanimously.

I've attached a map of the area, as well as background and historical information for your committee files.

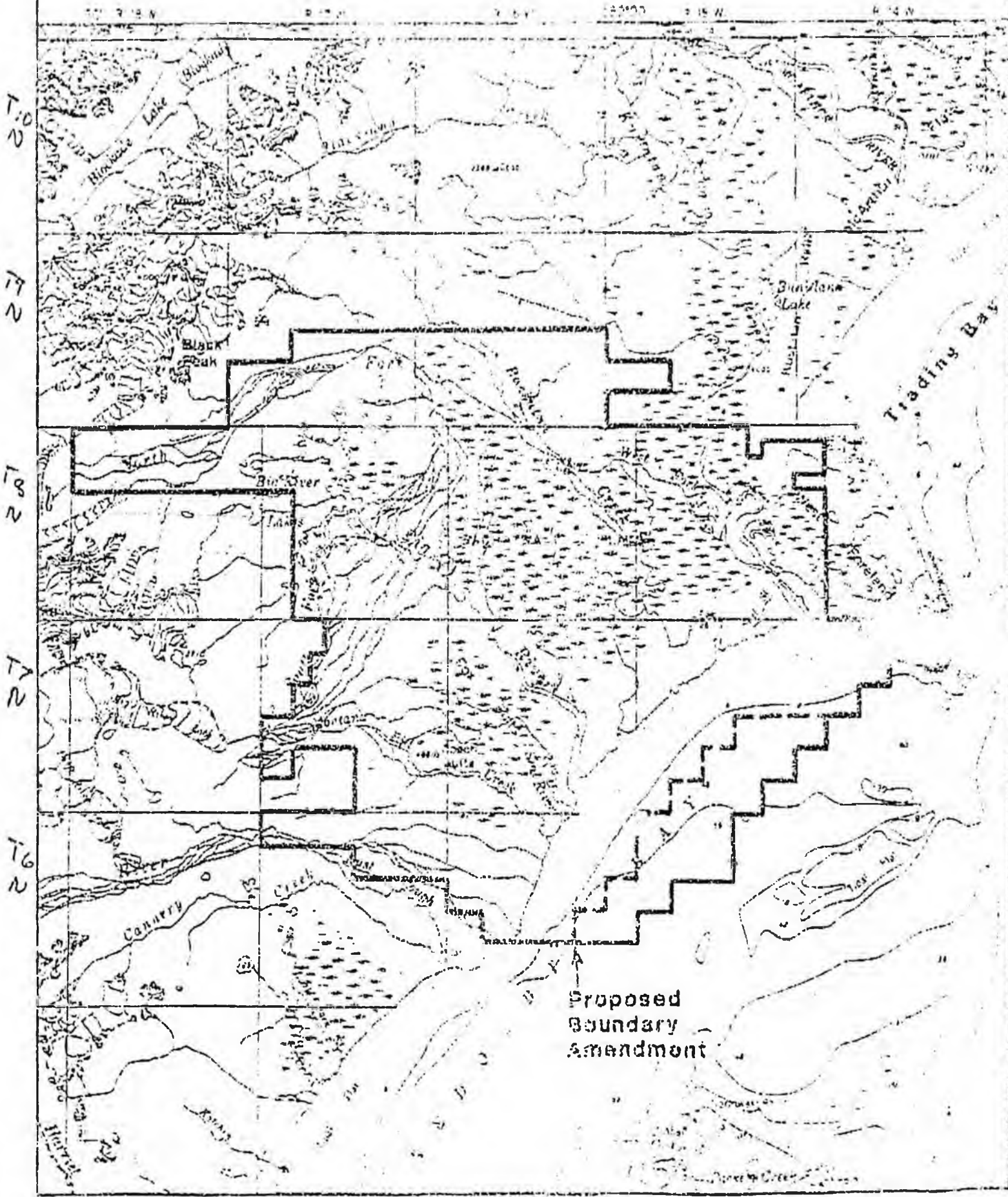
Your consideration will be greatly appreciated.

PAF/sgn

Attachments

(Proposed) Redoubt Bay Critical Habitat Area

3/2/88



Introduced by: Mayor
Date: March 21, 1989
Action: Adopted
Vote: 10 Yes, 5 No

KENAI PENINSULA BOROUGH

RESOLUTION 89-26

RECOMMENDING PASSAGE OF SENATE BILL 184 ESTABLISHING THE REDOUBT BAY CRITICAL HABITAT AREA

WHEREAS, Senate Bill 184 establishing the Redoubt Bay Critical Habitat Area has been introduced to the Alaska Senate; and

WHEREAS, the Kenai Peninsula Borough Planning Commission conducted a public hearing on this matter on March 21, 1988 and recommended approval of a similar bill introduced last year; and

WHEREAS, the Kenai Peninsula Borough Planning Commission considered this matter again at their December 5, 1988 meeting and passed Resolution 88-10 recommending revision of the draft bill to include a citizen advisory board to oversee the development of policies and regulations for the area; and

WHEREAS, Senate Bill 184 includes provisions for the establishment of a citizen advisory board;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Kenai Peninsula Borough Assembly supports the establishment of the Redoubt Bay Critical Habitat Area, as provided in Senate Bill 184.

Section 2. That the Kenai Peninsula Borough Assembly supports the appointment of a citizen advisory board including representation from user groups to oversee the development of policies and regulations affecting the critical habitat area.

Section 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 21st DAY OF March, 1989.

Jonathan W. Sewall
Jonathan W. Sewall, Assembly President

ATTEST:
James H. Brindley
Borough Clerk



MAR 06 1989

ALASKA OUTDOOR COUNCIL, INC.

3780 McGINNIS DR. JUNEAU, AK 99801
(907) 789-3450

March 6, 1989

Senator Paul Fischer
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Fischer:

This is to advise you that the Alaska Outdoor Council has taken a position supporting SB 184 which would create the Redoubt Bay Critical Habitat Area. In fact, it is one of our highest priority pieces of legislation this session.

We all fully realize the importance of this area for its wildlife and public use values. I believe your efforts and those of the Department of Fish and Game have paved the way for broad public support on this issue. It is important to us that the Kenai Borough and the Kenai sportsmen are fully supporting this legislative designation.

We appreciate your commitment and pledge to give you our full support in gaining passage of this legislation.

Sincerely,

Ron Somerville
Executive Director

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



White in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

State Senate

TO: House Resources Committee

FROM: Senator Paul Fischer, Sponsor *PF*
Co-Sponsors: Senators Sturgulewski, Rodey,
Kerttula, Uehling, Binkley and
Kelly

COMMITTEE SUBSTITUTE FOR SENATE BILL 184 (Finance) (establishing Redoubt Bay Critical Habitat Area)

Background and history of public involvement which prompted introduction of this legislation.....

Redoubt Bay, on the west side of Cook Inlet, has extensive coastal marsh and contains important fish and wildlife habitat and supports many public uses. Approximately 183,640 acres of the state owned, poorly drained wet lands and waterways are proposed for critical habitat designation. The two private parcels, totalling less than 10 acres, would not be regulated by the Act and the owners would be assured access to their lands.

The intent of the legislation is to establish dual management priorities of continued fish and wildlife protection and continued guaranteed public use of the entire area. On page four, the public uses are spelled out. The bill additionally would not deny new development of land uses that were compatible with or could be accomplished in a non-detrimental manner to these priorities.

Big game, waterfowl, furbearers, salmon and trout in this area are taken primarily by Alaskan residents for commercial and recreational purposes. Of National significance, it's the only known nesting site of Tule white-fronted geese, a scarce subspecies that has been considered for endangered species classification. These fish and wildlife resources prompted the Department of Fish & Game's request to classify Redoubt Bay a State Refuge in 1978 and 1981.

The first two attempts with legislation in 1978 and 1981 to establish the Refuge met with opposition from the public.

COMMITTEE SUBSTITUTE FOR SENATE BILL 184(Finance)
(establishing Redoubt Bay Critical Habitat Area)

Since then, the Department of Fish & Game has worked to inform the public about the important resources of the area and to identify and address public uses and concerns. Gradually a consensus for a request to the Legislature evolved.

In 1988, each of the four Kenai Peninsula Fish and Game Advisory Committees voted for a Resolution requesting the Alaska Legislature establish the Redoubt Bay Critical Habitat Area.

The Cook Inlet Aquaculture Association, the Kenai Peninsula Chapter of the Audobon Society, and the Kenai Peninsula Trappers Association also signed the Resolution; documenting additional local public support.

In 1988, I introduced Senate Bill 426. The bill received continuing support from the four Advisory Committees and in March of 1988 the Kenai Borough Planning and Zoning Commission voted to support it.

As the bill worked its way through the Committee system, good suggestions and proposed changes were made as a result of public input. Since it was introduced late in the last Session, it ended up dying in Senate Rules.

During the interim, work continued on drafting an acceptable Redoubt bill. The present request is supported by the Department of Fish & Game and others and is a direct result of work done by seven Kenai Peninsula groups directly involved with local fish and wildlife issues. The Kenai Peninsula Borough Planning and Zoning Commission recommended a Citizen's Advisory Committee be created.....that language is contained in this legislation.

During this Session, a Resolution of support from the Kenai Peninsula Borough was adopted. This legislation is supported by the Alaska Outdoor Council, the National Rifle Association, the Alaska Waterfowl Association, the International Wild Waterfowl Association, the Alaska Frontier Trappers Association, the Alaska Environmental Lobby, and the Alaska Miner Association.....just to name a few.

Cook Inlet Pipe Line Company, working with the Department of Fish & Game suggested sections be added to insure continued maintenance of their pipeline. The suggested language is contained in the Committee Substitute.

Redoubt Bay legislation has evolved significantly since 1978.

COMMITTEE SUBSTITUTE FOR SENATE BILL 184(Finance)
(establishing Redoubt Bay Critical Habitat Area)

The elements of a bill that would protect and maintain the fish and wildlife values (the resources, habitat, and established public uses) seem to be in place. The present approach with the Citizen's Advisory Committee is acceptable to many former opponents.

The bottom line is the public's desire to continue using the area as they have in the past. Without a formal management priority, the fish and wildlife values of the area could be lost piecemeal, because of conflicting land uses.

The designation of Redoubt Bay as a Critical Habitat Area gives that priority. The nesting habitat of the Tule Geese will be protected and current public use of the area will be preserved.

The only change made in Senate Finance was the addition of language to insure subsistence hunting and fishing will continue in the area.

S B

198

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 31, 1989

FURTHER REFERRALS:

Date of Committee Action: 4-14-89

The RESOURCES Committee considered:

CSSB 198 (FINANCE)

CS FOR SENATE BILL NO. 198 (Finance)

[ALTERATION OF SPORT FISHING REGS BY ADF&G]

"An Act relating to the authority of the commissioner of fish and game to modify certain sport fishing regulations; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
- [] have attached amendment(s)
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [X] zero fiscal note(s) 7+6 3/22/89
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass
No Rec
Amend

Richard Doherty
Duke Savare
Ben M. Hays
Bill Hays
Chloe Davis
Smiley

	Do Not Pass	No Rec	Amend

[Signature]
Chairman's Signature

Alaska State Legislature



2937 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

White in Juneau
P O BOX V
JUNEAU, ALASKA 99801
(907) 465-1818

SENATOR
ARLISS STURGULEWSKI
Senate President Pro Tempore
Chairman, Senate Rules Committee

Senate

M E M O R A N D U M

April 4, 1989

TO: Rep. Menard and Rep. Davidson
House Resources Co-Chairs

FROM: Sen. Arliss Sturgulewski
Senate Rules Chair

RE: SB 198 "An Act relating to the authority of the commissioner of fish and game to modify certain sport fishing requirements."

SB 198 is currently in your committee. This bill will allow the Commissioner of Fish and Game to modify sport fish bag limits or methods of harvest under criteria adopted by the Board of Fisheries.

SB 198 received unanimous "Do Pass" recommendations from the Senate Resources and Finance committees. The Finance Committee adopted a CS adding an immediate effective date. The Finance CS passed the Senate 16 to 2.

SB 198 has a zero fiscal note, is supported by the department and the Board of Fisheries, and is a top priority of the Alaska Sportfishing Association. It is a simple bill that has no adverse effect on any commercial or subsistence fisheries and to the best of our knowledge has no opposition.

I have attached for your information copies of the bill analysis and zero fiscal note from Fish and Game plus the zero fiscal note from Senate Finance. I would appreciate it if you could calendar SB 198 for hearing in the Resources Committee. Thank you.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Sport Fish	BILL NUMBER SB 198	SPONSOR Senator Sturgulewski
SHORT TITLE OF BILL An Act relating to emergency regulation authority			
DEPARTMENT POSITION Support			
PREPARED BY Norval Netsch	DATE 3/3/89	COMMISSIONER'S SIGNATURE <i>Chris Collinsworth</i>	DATE 3.3.89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Sport fishermen Lodge guides, outfitters, air taxi operators
ORGANIZATIONAL SUPPORT FOR BILL Alaska Sportfishing Association	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
This bill would assist ADF&G in implementing management options that would better conserve the resource, provide the public increased fishing opportunities, and take advantage of unpredicted harvestable surplus. Management options would be exercised under criteria adopted by the Board of Fisheries.

ANALYSIS OF BILL/PROGRAM EFFECTS
Enactment of SB 198 would provide the Sport Fish Division of ADF&G with greatly increased flexibility to quickly respond to opportunities to increase bag limits if abundance of stocks warrant; restrict method and means of taking if a conservation problem is foreseen; and to otherwise quickly respond to management options which will serve to protect the recreational fishery resource while at the same time providing the maximum utilization of the resource to the public.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Analysis DFG

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 198 (Fin)
PUBLISH DATE: 3/22/89

FISCAL NOTE

REQUEST: _____

REVISION DATE: _____
TITLE: Authority of Commissioner of Fish and Game to modify reggr.
SPONSOR: Senator Sturgulewski
REQUESTOR: Senate Finance

AGENCY: Dept. of Fish and Game
BRU: Sport Fish

COMPONENTS: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERS. SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND/BUILD.	0	0	0	0	0	0
GRANTS/CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	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 FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
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:

PREPARED BY:


SENATOR RICK UEHLING, CO-CHAIRMAN
SENATE FINANCE COMMITTEE

DATE: March 22, 1989
PHONE NO.: 465-4821

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to the authority of the commissioner of fish and game ..."
Sponsor: Arliss Sturgulewski
Requestor: _____
Agency Affected: Fish and Game
BRU: Sport Fish
Components: _____

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						
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

It is anticipated that this bill would result in an increase in the number of emergency orders (EOs) and a decrease in the number of emergency regulations (ERs) issued. ERs require much more staff time to prepare than EOs. Development criteria to present to the Board of Fisheries (BOF) would require additional staff time, but savings should result because it is likely that fewer regulatory proposals would be submitted through the BOF process. Although it is likely that an overall cost savings should result from this bill, it cannot be accurately quantified.

Prepared by: Frank Van Hulle Phone: 465-4180
Division: Division of Sport Fisheries Date: 3/3/89
Approved by Commissioner: Doree Chelmsworth Date: 3.3.89
Agency: Fish and Game

Distribution (by preparer):

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

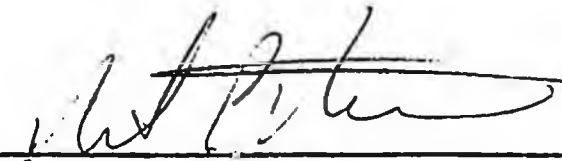


Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCE
committee name

committee on SB 198, dated 4/14/89
bill/subject

The Alaska Outfitters Association Inc.
supports SB 198 and would like to
see SB 198 passed out of committee as
soon as possible.

Signed:  NICK PIERSKALLA
Testifier

A.O.A. PRES.
Representing (Optional)

P.O. Box 920834 WASILLA AK 99607
Address

376-0502
Phone No.

STATE OF ALASKA



LYMAN F. HOFFMAN
REPRESENTATIVE

P O BOX 5
JUNEAU, ALASKA 99811
(907) 465-4530, 465-4453

HOUSE OF REPRESENTATIVES

DISTRICT 25

AKIACHAK
AKIAK
AIMAUTLUAK
BETHEL
CHITFORNAK
EEK
GOODNEWS BAY
KASGLUK
KIPNUK
KONGIGANAK
KWETHLUK
KWIGLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPICHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTIAK
TUNUNAK

March 23, 1989

M E M O R A N D U M

TO: Representative Clif D. 'son, Co-Chair
Representative Curt Menard, Co-Chair
House Resources Committee

FROM: Representative Lyman Hoffman

RE: House Joint Resolution 36 Opposing a Ceiling on
Federal Appropriations from the Pittman-Robertson and
Dingell-Johnson Funds for Wildlife and Sport Fish
Restoration Projects

I respectfully request a public hearing on this important resolution at your earliest convenience.

Included is background information about these federal funds that are allocated to the states and used for sport fish, wiildlife, and access projects.

The federal FY90 proposed budget seeks to cap the Dingell-Johnson and Pitt an-Robertson appropriations at \$100 million.

A strong message to the federal government from the Alaska Legislature is needed.

If there are questions concerning this resolution, please contact my office at your convenience.

Thank you.

MEMORANDUM

State of Alaska

DEPARTMENT OF FISH AND GAME

TO: Alison Elgee
Director
Office of Management and Budget FILE NO.:
Governor's Office

DATE: February 6, 1989

TELEPHONE NO.: 465-4100

SUBJECT: FY 90 Proposed
Federal Aid Cap

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

The federal FY 90 budget submitted to Congress by the Office of Management and Budget proposes a \$100 million cap on both the Dingell-Johnson (D-J) and Pittman-Robertson (P-R) appropriations. As you know, these funds are derived from taxes and duties paid on sporting equipment and fuel by sportsmen and other recreational users. By law, these funds are allocated to the states and can be used only for specific activities for sport fish, wildlife, and access projects.

This proposed cap would have the following monetary impact to Alaska:

	<u>FY 89 Appropriations</u>	<u>FY 90 Appropriation With Cap</u>	<u>Loss of Funds</u>
D-J Program (Sport Fish Programs)	\$ 8,975.0	\$4,700.0	\$4,275.0
P-R Program (Wildlife Programs)	5,126.0	4,008.0	1,118.0
Totals	<u>\$14,101.0</u>	<u>\$8,708.0</u>	<u>\$5,393.0</u>

Such a reduction would have a devastating impact on our Sport Fish and Wildlife Conservation Divisions. Significant cuts in management and research programs would be necessary and personnel layoff would be definitely required.

While I am confident you are already aware of this proposal, I wanted to apprise you of its significant impact on our department and its programs, and the need to forward the

Alison Elgee

-2-

February 6, 1989

information to our Congressional delegation. Should you have questions or need further information, I would be pleased to provide it.

Thank you.

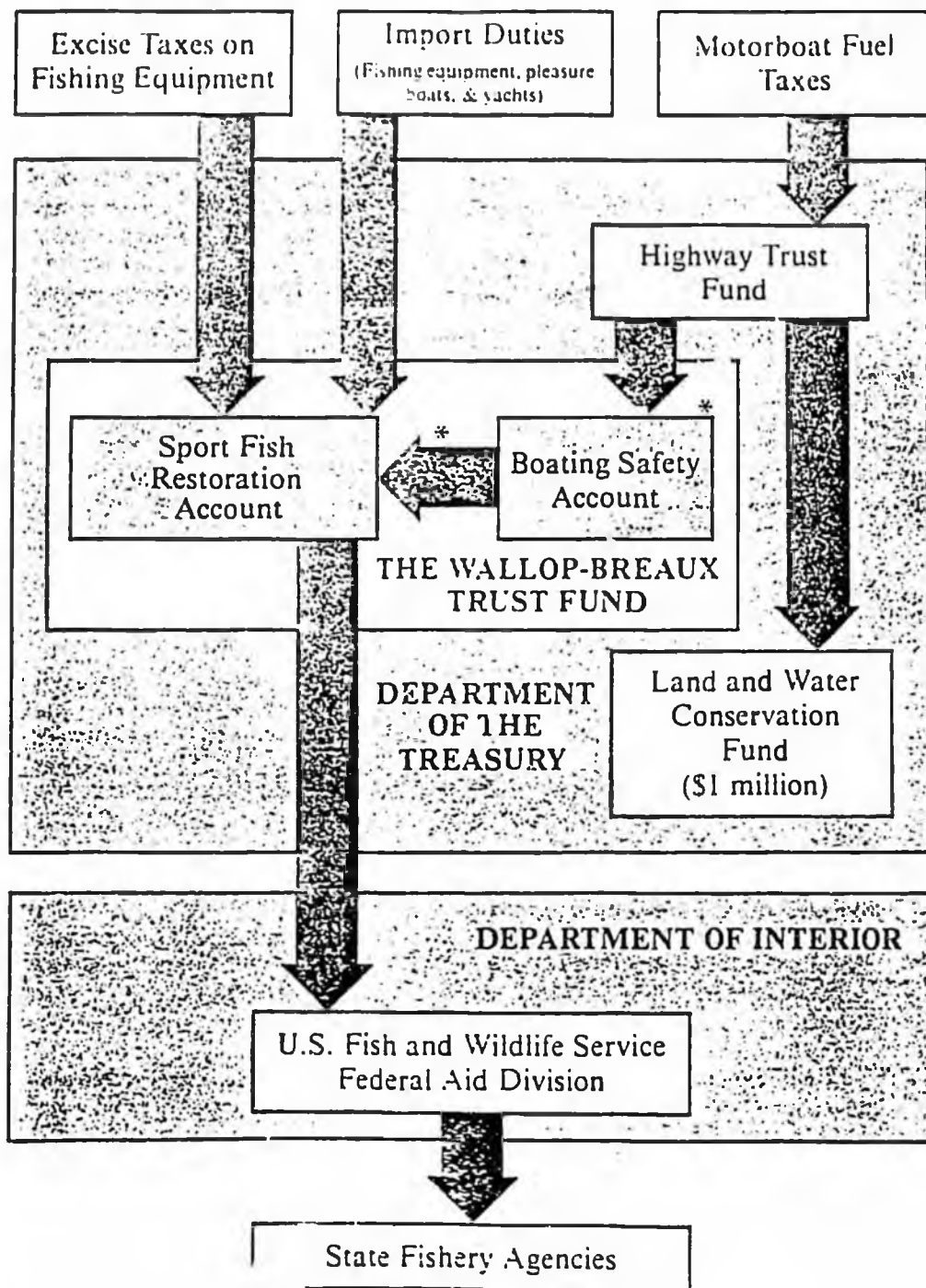
cc: Governor Steve Cowper

John Katz, Special Counsel for State/Federal Relations,
Washington, D.C.

Lew Pamplin, Director, Division of Wildlife Conservation,
ADF&G

Norval Netsch, Director, Division of Sport Fish, ADF&G

Figure 2. Flow of the Three Primary Sources of Wallop-Breaux Funds



*For Fiscal Year 1987 and 1988 the first \$60 million from the motorboat fuel tax is authorized by Congress to go into the Boating Safety Account, with the remainder going into the Sport Fish Restoration Account. The Boating Safety Account is administered by the U.S. Coast Guard.

BACKGROUND INFORMATION

Since statehood the U.S. Department of the Interior, U.S. Fish and Wildlife has provided funding to the State of Alaska, Department of Fish and Game (DFG) in accordance with the Federal Aid to States in Fish and Wildlife Restoration Acts. The Dingell Johnson (DJ) Program provides funding for sport fish restoration and the Pittman-Robertson (PR) Program provides funding for wildlife restoration. The federal government provides an allotment to each state based on the state's land area and number of licensed anglers and hunters. Allotments are limited to 5% of the total apportionments. Alaska is one of three states which receives the maximum allowed annual allotments.

Funds allotted to the states are derived from excise taxes on certain sporting goods. In 1985 the DJ Program was amended, significantly increasing the funds available for allotment beginning in FY 86. Revenues were increased through an expansion of the number of sporting goods subject to the excise tax, an allocation of the federal gasoline excise tax (the portion attributed to outboard motor users), and an imposition of import duties on custom yachts.

DFG must submit annual project proposals to U.S. Fish and Wildlife for approval to secure the State's available allotments. Federal participation is limited to a maximum of 75% of eligible costs and the State must provide the balance. Activities involving enforcement of fish and game regulations, or public relations activities conducted to promote DFG are specifically excluded from eligibility. The eligible purposes for funding are as follows:

Dingell Johnson (DJ) Program

Projects must be for the restoration, conservation, management, and enhancement of sport fish, and for provision of public use and benefits from these resources. Under the terms of the program, sport fish are limited to aquatic, gill-breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation.

The additional funds resulting from expansion of the DJ Program in 1985 are required to add to the existing state sport fishery program and not to substitute for or supplant other traditional funding sources. The state funded sport fish program includes all sport fish related expenditures by DFG, not just the required matching portion for federal funding. To comply with the maintenance of effort requirements, U.S. Fish and Wildlife requested that DFG establish its state funded sport fisheries base program by using FY 35 state funding or the average of FY 83 - FY 85.

The U.S. Department of the Interior determines whether substitution for or supplanting of state funding has occurred on a statewide sport fisheries program basis rather than project by project. This allows federal funds to be used for a particular project that has traditionally been state funded as long as the total state dollars spent on the sport fisheries program does not decrease. In other words if equivalent state funds are spent for traditionally federally funded projects or the state funded sport fisheries program increases proportionally for the federal funding of a traditionally state funded project, then supplanting will not have occurred and DFG will have complied with maintenance of effort requirements.

The U.S. Department of the Interior has also approved adjustments in the state funded sport fisheries base program when statewide budgets fluctuate. Base reductions must be justified and the percentage of reduction for state funded sport fish activities cannot be greater than the percentage of reduction for the whole department. The purpose of the maintenance of effort provision is to prevent the state funded sport fisheries program being targeted for reductions with the intent of using federal funds to replace state funds.

Ten percent of the total state apportionment is set aside by U.S. Fish and Wildlife for approved projects for recreational boating access facilities. Any portion of the 10% that is not expended or obligated within two years lapses back to the federal government. Not more than 10% of the State's annual apportionment may be spent on aquatic education projects. To date DFG has not spent any federal funds on aquatic education programs.

Pittman-Robertson (PR) Program

Projects must be for the restoration, conservation, management, and enhancement of wild birds and wild mammals, or to provide for public use of and benefits from these resources. Projects for the education of hunters and archers in the skills, knowledge, and attitudes necessary to be a responsible hunter or archer are also eligible for PR funding. Expenditures for wolf control are specifically excluded.

Budget Information for States

Agency: Dept. of Interior, U.S. Fish & Wildlife Service
 CFDA Program Title: Federal Aid in Fish Restoration
 CFDA Program Number: 15.605
 Budget Account Number: 14-8151-0-7-303

(D. NIELL JOHNSON)

State/Territory	FY 1988 Actual Obligations	(Amounts in 000's) Estimated Obligations FY 1989		FY 1990	1990 State Estimated % of Total Based on Program Formula
		Carryover	New BA		
Alabama	\$2,024	\$512	\$2,473	\$1,583	1.68 %
Alaska	8,012	0	7,361	4,700	5.00
Arizona	3,934	200	3,209	2,026	2.18
Arkansas	1,621	2,227	2,606	1,634	1.77
California	7,794	1,208	7,361	4,700	5.00
Colorado	2,806	1,835	3,681	2,343	2.50
Connecticut	987	956	1,472	940	1.00
Delaware	871	695	1,472	940	1.00
District of Columbia	639	109	486	313	0.33
Florida	3,949	226	3,312	2,045	2.25
Georgia	2,388	924	2,974	1,877	2.02
Hawaii	1,096	1,471	1,472	940	1.00
Idaho	2,524	147	2,488	1,596	1.69
Illinois	4,480	489	3,106	1,977	2.11
Indiana	2,770	872	2,311	1,490	1.57
Iowa	2,485	638	2,149	1,300	1.46
Kansas	2,379	401	2,179	1,372	1.48
Kentucky	2,799	758	2,429	1,500	1.65
Louisiana	1,993	88	2,356	1,490	1.60
Maine	1,626	600	1,472	940	1.00
Maryland	1,756	575	1,472	940	1.00
Massachusetts	1,428	530	1,472	940	1.00
Michigan	8,624	0	5,521	3,649	3.75
Minnesota	5,697	194	5,329	3,368	3.62
Mississippi	1,809	583	2,046	1,311	1.39
Missouri	4,482	338	3,813	2,477	2.59
Montana	2,398	1,446	3,327	2,173	2.26
Nebraska	2,110	1,312	1,943	1,245	1.32
Nevada	1,919	2,187	2,267	1,441	1.54
New Hampshire	1,732	709	1,472	940	1.00
New Jersey	1,530	766	1,472	940	1.00
New Mexico	3,104	5	2,650	1,714	1.80
New York	3,768	54	3,725	2,453	2.53
North Carolina	2,146	926	2,135	1,349	1.45
North Dakota	1,595	3	1,605	1,010	1.09
Ohio	3,802	2,287	3,901	2,477	2.65
Oklahoma	3,089	324	2,753	1,719	1.87
Oregon	3,296	1,280	3,519	2,304	2.39
Pennsylvania	3,165	878	3,695	2,377	2.51
Rhode Island	1,628	939	1,472	940	1.00
South Carolina	1,810	90	1,664	975	1.13
South Dakota	2,023	185	1,796	1,130	1.22
Tennessee	2,624	552	2,621	1,733	1.78
Texas	7,048	862	7,361	4,700	5.00
Utah	2,866	51	2,459	1,550	1.67
Vermont	1,634	898	1,472	940	1.00
Virginia	2,536	391	2,311	1,491	1.57
Washington	3,413	1,251	3,342	2,164	2.27
West Virginia	1,312	223	1,472	940	1.00
Wisconsin	5,397	1,050	5,064	3,274	3.44
Wyoming	2,224	0	2,252	1,438	1.53
American Samoa	405	167	486	313	0.33
Guam	438	115	486	313	0.33
Northern Mariana Is)	778	86	486	313	0.33
Puerto Rico	1,071	1,017	1,472	940	1.00
Trust Territory	0	0	0	0	0.00
Virgin Islands	458	22	486	313	0.33
Indian Tribe Set Asl	0	0	0	0	0.00
Undistributed	6,619	1,063	7,192	6,000	N/A
Total	\$58,909	\$ 38,507	\$ 154,384	\$ 100,000	99.98 %

BUDGET INFORMATION FOR STATES

Agency: Department of the Interior, Fish and Wildlife Service
 CFDA Program Title: Federal Aid in Wildlife Restoration
 CFDA Program Number: 15.F11
 Budget Account Number: 14-9923-0-2-303

W. H. HAN - ROBERTSON

State/Territory	FY 1988	Estimate Obligations		1990 State Estimated % of Total Based on Program Formula	
	Actual Obligations	Carryover	New BA FY 1990		
Alabama.....	\$2,114	\$504	\$1,820	\$1,660	1.77%
Alaska.....	4,452	74	4,505	3,999	4.38
Arizona.....	2,655	344	2,345	2,062	2.28
Arkansas.....	1,789	112	1,738	1,597	1.69
California.....	4,315	851	3,929	3,441	3.82
Colorado.....	2,242	262	2,510	2,255	2.44
Connecticut.....	754	275	741	666	0.72
Delaware.....	609	18	597	533	0.58
Distrc of Columbia.....	0	0	0	0	0.00
Florida.....	1,843	39	1,934	1,700	1.88
Georgia.....	2,303	1	2,324	2,121	2.26
Hawaii.....	954	1,169	597	533	0.58
Idaho.....	1,714	155	1,923	1,735	1.87
Illinois.....	2,229	816	2,078	1,872	2.02
Indiana.....	1,381	704	1,718	1,561	1.67
Iowa.....	1,724	140	1,677	1,511	1.63
Kansas.....	1,856	44	1,892	1,697	1.84
Kentucky.....	1,870	0	1,718	1,574	1.67
Louisiana.....	1,997	280	2,036	1,718	1.98
Maine.....	1,048	268	1,152	1,024	1.12
Maryland.....	987	0	1,018	918	0.99
Massachusetts.....	1,292	100	915	828	0.89
Michigan.....	4,427	733	3,713	3,310	3.61
Minnesota.....	2,675	231	2,859	2,571	2.78
Mississippi.....	1,606	36	1,666	1,492	1.62
Missouri.....	3,792	60	2,767	2,444	2.69
Montana.....	2,571	402	2,828	2,537	2.75
Nebraska.....	1,463	813	1,615	1,449	1.57
Nevada.....	2,310	1,885	1,831	1,623	1.78
New Hampshire.....	663	0	597	533	0.58
New Jersey.....	1,122	0	926	845	0.90
New Mexico.....	2,755	183	2,222	1,964	2.16
New York.....	3,132	205	3,209	2,840	3.12
North Carolina.....	4,120	0	2,067	1,843	2.01
North Dakota.....	1,439	38	1,378	1,239	1.34
Ohio.....	2,747	710	2,273	2,020	2.21
Oklahoma.....	1,889	29	1,862	1,713	1.81
Oregon.....	2,514	1,078	2,520	2,228	2.45
Pennsylvania.....	4,120	0	4,155	3,727	4.04
Rhode Island.....	623	169	597	533	0.58
South Carolina.....	1,807	178	1,255	1,071	1.22
South Dakota.....	1,610	934	1,656	1,419	1.61
Tennessee.....	2,488	52	2,561	2,332	2.49
Texas.....	4,294	1,326	4,824	4,295	4.69
Utah.....	1,848	0	1,892	1,696	1.84
Vermont.....	601	7	597	533	0.58
Virginia.....	2,254	26	2,242	2,049	2.18
Washington.....	2,238	1,049	2,047	1,821	1.99
West Virginia.....	1,418	0	1,306	1,180	1.27
Wisconsin.....	3,022	926	3,158	2,822	3.07
Wyoming.....	1,885	162	1,934	1,670	1.88
American Samoa.....	215	175	175	153	0.17
Guam.....	176	123	175	153	0.17
Northern Mariana Islands.....	217	84	175	153	0.17
Puerto Rico.....	450	0	432	385	0.42
Trust Territory (excluding NMI)....	0	0	0	0	0.00
Virgin Islands.....	167	0	175	153	0.17
Indian Tribe Set Aside.....	0	0	0	0	0.00
Undistributed.....	6,823	843	7,534	8,200	
Total.....	\$115,605	\$18,613	\$110,387	\$100,000	100.00%

S B

205

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 22, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 5/6/90

The RESOURCES Committee considered:

CSSB 205 (RESOURCES)

CS SB NO. 205 (Res)

LEASE OF CERTAIN TIDELAND TO NONRESIDENTS

"An Act relating to the rental fee charged for shore fisheries leases; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) 3/5/90 DNR
- [] zero fiscal note(s) _____
- [] zero fn/analysis _____

SIGNING DO PASS:

FOSTER

Richard Foster

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

	Do Not Pass	No Rec	Amend
<i>Davidson</i> DAVIDSON	<input checked="" type="checkbox"/>		
<i>M. Davis</i> M. DAVIS		<input checked="" type="checkbox"/>	
<i>Hudson</i> HUDSON		<input checked="" type="checkbox"/>	
<i>Sharp</i> SHARP		<input checked="" type="checkbox"/>	
<i>Furnace</i> FURNACE		<input checked="" type="checkbox"/>	
<i>Nauvare</i> NAUVARE		<input checked="" type="checkbox"/>	
<i>Jacko</i> JACKO			<input checked="" type="checkbox"/>

Davidson

Chairman's Signature

Original sponsor(s): SEN. ZHAROFF

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 205 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rental fee charged for shore
7 fisheries leases; and providing for an effective
8 date."

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

10 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that the
11 residents of the state are responsible for the general financial support of
12 the programs of state government and that the vast majority of support for
13 the programs of state government comes from taxes and revenue from state-
14 owned land. To a large extent, those who are nonresidents of the state do
15 not financially support the programs of state government that provide
16 services to both residents and nonresidents within the state. These ser-
17 vices include the administration of the various state departments and
18 agencies and their programs and specifically include the management of the
19 tideland leasing program. While the United States Constitution prevents
20 the state from discriminating in its delivery of services to nonresidents,
21 the Constitution does not prevent the state from charging nonresidents a
22 differential that compensates the state for the costs and expenses that
23 nonresidents impose on state government.

24 * Sec. 2. AS 38.05.082(c) is amended to read:

25 (c) A lease for set net fishing may be issued for any period not
26 exceeding 10 years. If the commissioner determines that the land is
27 not being utilized for the purpose for which the lease is issued, the
28 lease may be declared void. The director shall establish and may
29 revise a [REASONABLE] rental fee for the lease to nonresidents of the

1 state that includes a revenue generating component and [, EQUAL TO]
2 the administrative costs involved in processing the leasehold applica-
3 tions. The director shall establish and may revise a rental fee for
4 residents of the state that includes a revenue generating component
5 and one-fifth of the administrative costs involved in processing the
6 leasehold applications. The revenue generating component of the
7 rental fee established or revised by the director shall be \$75 for
8 residents and nonresidents.

9 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. DAVIDSON

TO: CSSB 205 (Resources)

Page 1, line 29, after "revise":

Insert "under (f) - (i) of this section"

Page 2, after line 8:

Insert a new bill section to read:

"* Sec. 3. AS 38.05.082 is amended by adding new subsections to read:

(f) The dollar amounts in the revenue generating component in (c) of this section change, as provided in (g) - (i) of this section, according to and to the extent of changes in the Consumer Price Index for all urban consumers for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of the year in which this section becomes effective is the reference base index.

(g) The dollar amounts change on October 1 of each ^{year} third year according to the percentage change between the index for January of that year and the most recent index used to determine whether to change the dollar amounts. After calculation of the new amounts, the resulting amounts shall be rounded to the nearest cent.

(h) If the index is revised, the percentage of change is calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index is determined by multiplying the reference base index applicable by the

rebasing factor furnished by the United States Bureau of Labor Statistics. If the index is superseded, the index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for Alaskan consumers.

(i) The director shall adopt a regulation announcing

(1) on or before June 30 of each third year, the changes in dollar amounts required by (g) of this section; and

(2) promptly after the changes occur, changes in the index required by (h) of this section, including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index."

Renumber the following bill section accordingly.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

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

DURING SESSION:

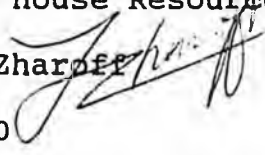
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

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

MEMORANDUM

TO: Rep. Cliff Davidson
Rep. Curt Menard
Co-Chairmen - House Resources Committee

FROM: Sen. Fred F. Zharoff 

DATE: April 20, 1990

RE: CS For Senate Bill 205 - "An Act relating to the rental fee charged for shore fisheries leases; and providing for an effective date."

CSSB 205 extends to shore leases the same principle that is now used for commercial fishing licenses, fisheries permit renewals, hunting and trapping licenses, and university tuition. That is, different fee structures can be applied to residents and nonresidents for the use of the resources and the services of the state.

The purpose of the differential in CSSB 205 is to capture a greater share of the cost that Alaskans bear year-round for the management of the tidelands leasing program, the protection and regulation of the marine environment, and the management of our fisheries resources.

The current version of CSSB 205 has been drafted in such a way so as to pass the nondiscrimination test in Alaska's constitution. The language -- provided by Mr. Tom Koester, assistant attorney general -- breaks shore leases into two components: a lease fee (the revenue-generating component) and the administrative fee. The revenue fee must be the same for residents and nonresidents, but the state may charge nonresidents for more of the administrative costs than it does residents.

CSSB 205 also restructures the shorelands leasing program in such a way that more revenue can be collected, which will enable the program to pay for itself. CSSB 205 carries a positive fiscal note of approximately \$210,500.

There is one aspect of the bill, however, that was left unresolved in the most recent version. I wish to work with the Resources Committee on a CS that would cap the lease fee at \$75, so as not to unduly burden state residents when they acquire their shore leases.

The following backup information is attached:

1. Department of Natural Resources position paper, addressed to Resources Chair Sen. Bettye Fahrenkamp. The amendment DNR recommended was incorporated into the Resources CS.
2. Fiscal note.
3. Letter from Mr. G. Thomas Koester, assistant attorney general, dated Jan. 19, 1990.
4. Letter from Mr. Gary Gustafson, director of the Division of Land and Water Management, dated Feb. 9, 1990.
5. Memorandum from Mr. Richard Bradley, Legal Services Division, giving the definition of a "resident".
6. List of current market values of Alaska salmon set net limited entry permits and the number of nonresidents holding those permits.
7. State statutes.

RECEIVED FEB 27 1990

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

①

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 465-2400

February 26, 1990

The Honorable Bettye Fahrenkamp
Chair
Senate Resource Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Subject: Senate Bill 205, An Act relating to the lease of certain tideland to nonresidents of the state.

Position: The department supports the concept of this bill.

Background: The current committee substitute provides for two components, an administrative component and a revenue generating component. The administrative component provides that non-residents would pay the full administrative cost of the program, and residents would pay one-fifth that amount in recognition of other contributions of residents.

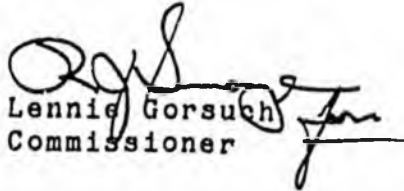
The committee substitute is revenue neutral which is mandatory, since this program is administered under program receipts. The department recommends SB 205 contain administrative flexibility to adjust rental fees to cover future costs of administering the program. The figures included in the committee substitute work with the current resident to non-resident ratio. If the ratio changes, the figures would not be revenue neutral.

Recommended language:

The director shall establish a rental fee for the lease to nonresidents of the state that includes a revenue generating component, plus the administrative cost to administer the program; the director shall establish a fee for the residents of the state that consists of a revenue generating component, plus 1/5 of the administrative costs. The revenue generating component is equal for both residents and non-residents.

I appreciate the opportunity to work with you and your staff on this legislation. We continue to be available if you have further questions.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Committee Members
Bill Sponsor
Bob Evans
Denby Lloyd

bcc: Janet Burleson

STATE OF ALABAMA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 205 (Res)
PUBLISH DATE: 3/5/90

2

FISCAL NOTE

REQUEST:

Revision Date: 26-Feb-90
Title: An act relating to the lease of certain tideland to nonresidents of the state.
Sponsor: Zharoff
Requestor: Senate Resources Committee

Agency Affected: Natural Resources
BRU: Land & Water Mgmt
Components: Land & Water Mgmt

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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		210.5	210.5	210.5	210.5	210.5

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This program is run by program receipts. Revenue generated will first be used to fund the program to the authorized program receipts amount. These figures are based on the current CS using \$115.0 for residents in the revenue generating component and 1/5 of the administrative costs for residents. See page 2.

Prepared by: Larry Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 26-Feb-90
Approved by Commissioner: [Signature] Lonnie Gorsuch Date: 26-Feb-90
Agency: Department of Natural Resources

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

Changes in CS SB 205 (Res) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996

[Signature]
Larry Ostrovsky

DNR FISCAL note CS (RES)

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

January 19, 1990

RECEIVED 1 21 1990

The Honorable Fred Zharoff
Alaska State Senator
P.O. Box V
Juneau, AK 99811

Re: SB 205

Dear Senator Zharoff:

At an April 6, 1989 Senate Judiciary Committee meeting, we expressed some concern with Senate Bill ("SB") 205, a bill which you sponsored and which would charge nonresidents a rental fee equal to five times the fee charged residents for a shore fisheries lease. At that time, we indicated that we would get back to you with some language which we believe would accomplish your goal -- ensuring that nonresidents pay their full share of the costs of administering the shore fisheries leasing program -- without presenting constitutional problems.

The easiest way to do this would be to determine the administrative costs of the program, pro rate that cost over all existing shore fishery leases, require that nonresidents pay the full prorated cost for their individual leases, but require residents to pay only one-fifth that amount in recognition of their contributions to the cost of the program through other means (e.g., taxes, revenues from other state-owned lands, etc.).

The problem with this approach is that it would not be revenue neutral. AS 38.05.082(c) currently provides that the annual rental (for both residents and nonresidents) is the prorated cost of the program. Reducing the amount residents must pay also would reduce the total revenue.

A possible solution is to provide that the annual rental fee consists of two components: (1) a revenue-generating component, which both residents and nonresidents must pay; and (2) a prorated administrative cost component which nonresidents must pay while residents would be charged only one-fifth of that amount in recognition of their contributions toward payment of the administrative costs through other means.

Honorable Fred Zharoff

January 19, 1990
Page 2

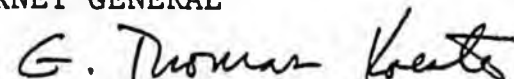
For your consideration, we have enclosed a draft proposed committee substitute for SB 205 incorporating the foregoing concept. As you will note, we have left blank the amount of the revenue-generating component. We understand the Department of Natural Resources is currently recalculating the cost of the program, and will supply you with the necessary figure when it is available.

As always, the provision of this draft language should be considered a drafting service and not necessarily administration support for the bill.

Sincerely,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:


G. Thomas Koester
Assistant Attorney General

GTK:dlm

Enclosure

cc w/enc.: Honorable Lennie Gorsuch
Commissioner
Department of Natural Resources

Honorable Don Collinsworth
Commissioner
Department of Fish and Game

DRAFT PROPOSED COMMITTEE SUBSTITUTE FOR SB 205

For an Act entitled: "An Act relating to the rental fee charged for shore fisheries leases."

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the residents of the state are responsible for the general financial support of the programs of state government, and that the vast majority of support for the programs of state government comes from taxes and revenues from state-owned lands. To a large extent, those who are nonresidents of the state do not financially support the programs of state government that provide services to both residents and nonresidents within the state. These services generally include the administration of the various state departments and agencies and their programs and specifically include the management of the tideland leasing program. While the United States Constitution prevents the state from discriminating in its delivery of services to nonresidents, the Constitution does not prevent the state from charging nonresidents a differential that compensates the state for the costs and expenses that nonresidents impose on state government.

* Sec. 2. AS 38.05.082(c) is amended to read:

(c) A lease for set net fishing may be issued for any period not exceeding 10 years. If the commissioner determines that the land is not being utilized for the purpose for which the lease is issued, the lease may be declared void. The

director shall establish a [REASONABLE] rental fee for the lease to nonresidents of the state that is[.] equal to \$_____ plus the administrative costs involved in processing the leasehold applications. The rental fee for residents of the state is \$100.00 plus one-fifth of the administrative costs involved in processing the leasehold applications.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

RECEIVED FEB 13 1990

4

STEVE COWPER, GOVERNOR

3601 C STREET
P.O. BOX 107005
ANCHORAGE, ALASKA 99510 7005
PHONE: (907) 561-2020

February 9, 1990

The Honorable Fred Zharoff
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: SB 205

Dear Senator Zharoff:

Recently, you received a letter dated January 19, 1990, from G. Thomas Koester of the Department of Law, Office of the Attorney General, regarding Senate Bill 205 (SB 205), a bill which you sponsored. As indicated by Mr. Koester in the January 19 letter, the Division of Land and Water Management of the Department of Natural Resources has recalculated the administrative costs of the shore fishery lease program. Direct administrative costs for the shore fishery leasing program in FY 91 are expected to be \$250,000. Based on past fiscal years' revenue streams, 85% of the total administrative costs, or \$212,500 should be defrayed by the shore fishery lease rental payments. The remaining 15% is covered by application and plat fees. By FY 91, we expect to have 1,100 issued leases. At an annual rent of \$200, these 1,100 leases would generate the revenue needed to cover these costs.

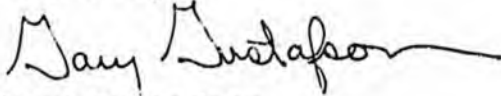
Enclosed is a work sheet incorporating the Department of Law's recommended revenue generating and pro rated cost components. The worksheet contains a revenue generating component of \$115. This is the amount necessary to make the proposal revenue neutral. It entails raising each resident's annual rental by \$5.00. The additional \$5.00 may not be adequate to justify the additional administrative costs of raising the rent.

In closing, the Division of Land and Water Management is generally supportive of the intent of Senate Bill 205. We strongly recommend SB 205 contain administrative flexibility to

The Honorable Fred Zharoff
February 9, 1990
Page 2

adjust rental to cover the costs of running the program. We certainly appreciate the opportunity to work with you and your staff on this important piece of legislation.

Cordially,



Gary Gustafson
Director

GG:BS:ref

Enclosure

cc: G. Thomas Koester
Janet Burleson
Veronica Gilbert

February 9, 1990

DEPARTMENT OF NATURAL RESOURCES

SHORE FISH ANNUAL RENT

<u>RESIDENT</u>		<u>NONRESIDENT</u>	
\$ 115	Revenue Generating Component ⁽¹⁾	\$ 115	Revenue Generating Component ⁽¹⁾
\$ + 40	1/5 of Admin Costs ⁽²⁾	\$ + 200	100% of Admin Costs ⁽²⁾
\$ 155		\$ 315	
x 850	No. of Resident Lessees	x 250	No. of Nonresident Lessees
<u>\$131,750</u>	Revenue Derived from Residents	<u>\$78,750</u>	Revenue Derived from Nonresidents

Revenue Derived From Resident and Nonresident Lease Rent \$210,500

⁽¹⁾Revenue generating component is the same for residents and nonresidents and not discriminatory.

⁽²⁾Direct administration costs projected for FY 91 to be defrayed by lease rental of 1,100 lessees is \$212,500. Under present rent rate, total revenue derived is \$165,000.

a:sfrent

5

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 23, 1988

SUBJECT: Fees for set net sites
(Work Order No. 6-0369)

TO: Senator Fred Zharoff

FROM: Richard A. Bradley
Legislative Counsel *RB*

The bill enclosed responds to your request.

I may say that we have not reexamined the constitutional question addressed in the attorney general's you provided to us.

I have not defined the term "resident". As such, the definition provided at AS 01.10.055. would apply; the section provides:

Sec. 01.10.055. RESIDENCY. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation, that may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

Senator Fred Zharoff
Page 2
December 23, 1988

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state.

If I may be of further assistance, please advise.

Enclosure

RAB:gc
WKG5/036

SET NET PERMIT PRICES AS OF JANUARY 31, 1990 AND THE NUMBER OF NONRESIDENTS HOLDING SET NET PERMITS AS OF DECEMBER 31, 1988.

<u>Set Net Permits</u>	<u>Average Value</u>	<u>Total Permits</u>	<u>Non-Residents</u>	<u>Percentage</u>
Yakutat	\$ 41,000	164	29	17.7
Prince William Sound	64,167	30	3	10.0
Cook Inlet	84,100	743	83	11.2
Kodiak	95,000	187	39	20.9
Alaska Peninsula	79,156	113	19	16.8
Bristol Bay	62,944	941	229	24.3
TOTAL		<u>2,178</u>	<u>402</u>	<u>18.4</u>

Source: Commercial Fisheries Entry Commission

ig
S
y
S
e
S
r
j
n

7

Sec. 38.05.077. Classification and disposal of remote parcels. Repealed, § 7 ch 103 SLA 1983. For current law see AS 38.09.1

Sec. 38.05.078. Purchase of land in a remote parcel. Repealed, § 7 ch 103 SLA 1983. For current law see AS 38.09.1

Sec. 38.05.079. Remote cabin permit. (a) After September 1, 1980, the commissioner may issue a permit for the use of remote state land in a municipality for a cabin site if the land was classified for that purpose under former AS 38.05.047(a)(5)(B). After September 1, 1981, the commissioner may issue a permit for the use of remote state land outside a municipality for a cabin site if the land is classified for that purpose under the procedures required by AS 38.05.300 and 38.05.945.

(b) The fee for a remote cabin permit is \$100 a year. The commissioner shall establish regulations which specify the application procedures for and the terms and conditions of a remote cabin permit. A permit must be for a term of not less than 25 years, and may be assigned by the original permittee during the term of the permit.

(c) A remote cabin permit may be terminated by the commissioner before the expiration of the term of the permit if a permittee fails to use the land under permit in the manner required by the terms of the permit. After termination of a remote cabin permit, improvements or personal property on the land subject to the permit shall be managed in the same manner as required by AS 38.05.090.

(d) If land subject to a remote cabin permit is offered for sale or long-term lease, the commissioner shall first offer to sell or lease the land to the permittee or the assigns of the permittee. The land shall be sold for its fair market value. (§ 32 ch 85 SLA 1979; am § 98 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment made a series of technical and internal reference changes throughout subsection (a).

Sec. 38.05.080. Rejection of bids. Before the director signs the lease, the commissioner may reject all bids for leases when the best interest of the state justifies this action. (§ 2 art V ch 169 SLA 1959; am § 10 ch 61 SLA 1960; am § 3 ch 74 SLA 1961)

NOTES TO DECISIONS

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).



Sec. 38.05.082. Leases for shore fisheries development. (a) The director, with the approval of the commissioner, may lease tide and submerged land for fisheries development. Fisheries development

includes the utilization of shore gill nets or set nets for the taking of fish. Every lease issued under this section shall reserve to the public a right-of-way for access to navigable waters and other tide and submerged land.

(b) The director may classify land as subject to leases for fisheries development, and publicly invite applications for lease of the selected areas. Each application shall be accompanied by an affidavit to the effect that the applicant presently intends to personally utilize the leased area for fishing purposes the following season. If two or more applications are received for the same shore area, the director shall award the lease to the most qualified applicant. In determining the qualifications of applicants, the director shall consider the length of time during which the applicant has been engaged in set netting, the proximity of the past fishing sites of the applicant to the land to be leased, the present ability of the applicant to utilize the location to its maximum potential, and other factors relevant to the equitable assignment of the disputed area. If the director cannot determine a preference between conflicting applicants for the same lease site on the basis of qualifications, the director shall select between the applicants by lot. An aggrieved applicant may appeal to the commissioner within five days for a review of the director's determination.

(c) A lease for set net fishing may be issued for any period not exceeding 10 years. If the commissioner determines that the land is not being utilized for the purpose for which the lease is issued, the lease may be declared void. The director shall establish a reasonable rental for the lease, equal to the administrative costs involved in processing the leasehold applications.

(d) Subleasing and renewals of leases are governed by AS 38.05.095 and 38.05.102.

(e) The lease of submerged land conveys no interest in the water above the land or in the fish in the water. (§ 2 ch 93 SLA 1963; am § 99 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment changed the internal reference in subsection (d).

Opinions of attorney general. — This section, which authorizes shore fishery leases, does not create an exclusive right of fishery and therefore is not

unconstitutional under § 15, art. VIII, of the state constitution. 1983 Op. Att'y Gen. No. 04.

This section can be amended to limit the issuance of state tidelands leases for fisheries development to residents of Alaska. 1983 Op. Att'y Gen. No. 03.

Sec. 38.05.085. Term of lease. (a) The lease shall provide that

(1) for the initial 25-year period of the lease, the lessee shall pay the state a fixed base annual rent to be agreed upon by the parties in compliance with the provisions of this chapter;

(2) the fixed base annual rent to be paid by the lessee shall be readjusted when the initial 25-year period of the lease has expired and, thereafter, every 10 years; and

(3) the readjusted annual rent may not exceed 10 per cent of the value of the property as determined in (b) of this section or 50 per cent more than the amount paid each year during the initial period or the preceding 10-year period, whichever is lower.

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the director shall have the property appraised by a qualified appraiser. If the lessee disagrees with the appraisal obtained by the director, the lessee may appoint a qualified appraiser to make an appraisal of the property in question. If the two appraisers agree upon the fair market value, the determination is binding on the parties. In the event the two appraisers are unable to agree, they shall appoint a third qualified appraiser who shall then make an appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the property in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

(c) The lessee shall make advance payments of the annual rent or portion of it as the director, with the approval of the commissioner, may require.

(d) A preference right lessee of grazing or forest land may follow the payment schedule established in the cancelled federal lease or grazing permit if the lessee so desires.

(e) Notice of all actions by the department affecting the rights of a lease or lessee shall be given to the lessee.

(f) A violation of a provision of this chapter or of a term or provision of a lease subjects the lessee to appropriate legal action, including, but not limited to, a forfeiture of the lease.

(g) In this section,

(1) "annual rent" means the amount of rent paid annually determined by multiplying the fair market value by the rental rate computed at the time of the initial 25-year period of the lease or of each subsequent 10-year period of the lease;

(2) "qualified appraiser" means a senior member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, a person meeting the requirements for certification as an appraiser II by the division of personnel, Department of Administration, or a person qualified according to regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62);

(3) "rental rate" means the rate, expressed as a percentage of fair market value, which a comparable class of privately owned property would bring in the open market with the same conditions of lease as offered by the state. (§ 3 art V ch 169 SLA 1959; § 11 ch 61 SLA 1960; § 4 ch 74 SLA 1961; am § 9 ch 138 SLA 1977; am §§ 8, 9 ch 182 SLA 1978)

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

May 3, 1990

The Honorable Curt Menard
The Honorable Cliff Davidson
Co-Chairmen, House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Chairmen Menard and Davidson:

Subject: It is my understanding that the sponsor of SB 205, an act relating to the rental fee charged for shore fishery leases, may propose an amendment in the House Resources Committee. The amendment, as included in the work draft of a committee substitute recently provided the department, provides that the revenue generating component of the rental fee shall be \$75 for residents and non-residents.

The department strongly opposes this proposed amendment. We earlier worked with the sponsor to arrive at the language in the current committee substitute (March 2, 1990). The original language is consistent with the legal advice offered the sponsor by the Department of Law and would not impact the department's revenue generation ability.

However, the amendment contained in the proposed House CS for SB 205 would adversely impact our ability to generate revenue from this program. At present, the revenue generation component from shore fishery leases is \$115 per year for both residents and non-residents. If adopted, the CS would reduce the revenue generation component to \$75 per year, and would generate about \$44,000 per year less than we do at the present time (\$40/lease reduction x 1,100 leases = \$44,000/annum). The entire shore fishery lease program is run on a program receipt basis and generates about \$185,000 per year.

As you know, the shore fishery lease program is extremely important to an estimated 1,100 lessees, many of whom make their primary income from the program. A reduction in annual income of \$44,000 represents almost one-quarter of our program receipts.

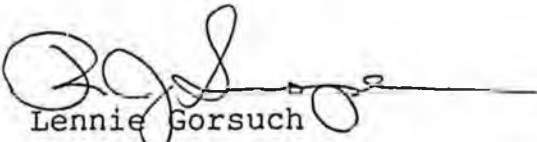
May 3, 1990

This would greatly curtail our ability to run the program and will increase our backlog tremendously.

When the shore fish program began in 1964, the revenue generation component was \$40 per year. Since then, the rental fee has increased only to \$115 per year. Rental fees are generally not specified in statute because they are then very difficult to change, even when associated costs increase. Instead, agencies specify fees in regulation, as is presently the case with shore fish lease rentals. If any changes are proposed to the fee schedule, these regulations will receive full public review prior to any decision.

In summary, this amendment would seriously curtail our ability to run an effective shore fishery program and reduce our revenue generation capability substantially. I urge you to take these concerns into consideration as you act on the amendment. The department supports the bill in its original form, but opposes the sponsor's amendment. However, should the amendment be adopted, the revised fiscal note from the department should be attached.

Sincerely,



Lennie Gorsuch
Commissioner

Enclosure

cc: Senator Fred Zharoff
House Resource Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land & Water Management
Department of Natural Resources

15 per admin component

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 205
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 3-May-90
Title: An act relating to the rental fee charged for shore fisheries leases.
Sponsor: Zharoff
Requestor: House Resources Committee

Agency Affected: Natural Resources
BRU: Land & Water Mgmt
Components: Land & Water Mgmt

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	44.0	44.0	44.0	44.0	44.0	44.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	44.0	44.0	44.0	44.0	44.0	44.0

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

REVENUE	150.0	166.5	166.5	166.5	166.5	166.5
---------	-------	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

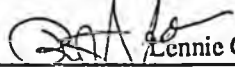
GENERAL FUND	44.0	44.0	44.0	44.0	44.0	44.0
FEDERAL FUNDS						
OTHER						
TOTAL	44.0	44.0	44.0	44.0	44.0	44.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This replaces the Department's earlier fiscal note of February 26, 1990.

Prepared by: Gary Gustafson Phone: 465-2400
Division: Land & Water Management Date: 3-May-90
Approved by Commissioner:  Lennie Gorsuch Date: 3-May-90
Agency: Department of Natural Resources

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

S B

209

HOUSE COMMITTEE REPORT

(9)

Date Referred: April 14, 1989

FURTHER REFERRALS:

Date of Committee Action: 4-27-89

The RESOURCES Committee considered:

CSSB 209 (RES) am

CS FOR SENATE BILL NO. 209 (Resources) am
 [SALE OF ORGANIC FOOD]
 "An Act relating to the sale of organic foods."

RECOMMENDATIONS:

- be replaced with HCS CS SB 209 (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):
 (Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis DEC 3-13-89

DNR 3-13-89

SIGNING DO PASS:

SIGNING:

(Check approv. column)

Do Not Pass No Rec Amend

<u>W. L. ...</u>		✓	

W. L. ...
 Chairman's Signature

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 13, 1989

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

Dear Senator Fahrenkamp:

Subject: Senate Bill 209, relating to the sale of organic foods.

Position: The Department of Natural Resources supports this bill but will be unable to develop and implement organic food product regulations and verification procedures until funding for staff and travel is provided.

Background: Under AS 03, the Department of Natural Resources is responsible for regulating the sale or use inside the state of plants, seeds, vegetables, shell eggs, fruits, and berries to protect the public interest and prevent product fraud, deception or misrepresentation. Currently, Division of Agriculture staff inspect farm products in storage or in retail stores to determine whether products match labeling statements related to grade, kind, etc. If a product violates our regulations, staff can direct the possessor concerning the appropriate disposition of the product.

This bill would allow (but not require) the department to develop regulations specific to organic foods. It would also allow us to inspect products labeled organic and enforce violations of our quality or labeling requirements. Unless additional funding for staff and travel is provided, however, the department would not be able to develop organic and natural food regulations and would not be able to determine or enforce rule violations.

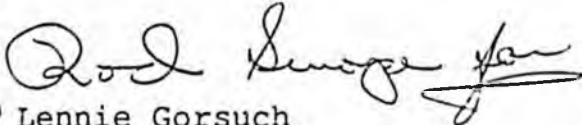
Senator Fahrenkamp .

-2-

March 13, 1989

Recommendation: Authorize a fee schedule (and use of program receipts to fund necessary staff and travel) for inspection and verification work by state inspectors.

Sincerely,



Lennie Gorsuch
Commissioner

cc: Bill Sponsors
Committee Members
Commissioner Dennis Kelso
Department of Environmental Conservation
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Frank Mielke, Director
Division of Agriculture

SB 209

The Department supports SB 209. We believe that it is in the best interest of consumers to have some assurance that food labeled natural or organic meets the definitions in this bill. Currently, there are no requirements except for some very broad federal guidelines for meat and poultry products.

The bill sponsor's staff has stated that compliance with the law is expected to be completely voluntary. We believe that the requirement that vendors obtain sworn statements of compliance from producers, makes this a realistic expectation.

The Department has submitted a zero fiscal note, with the understanding that we are not expected to disseminate any information to vendors about the effects of the law and that we will not monitor, test, or inspect to verify compliance.



Douglas Doregan 4/13/89



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

April 12, 1989

TO: HOUSE HESS COMMITTEE MEMBERS

FROM: Senator Jay Kerttula

SUBJECT: Senate Bill 209, relating to organic foods

Senate Bill 209 is a labeling bill that provides Alaska consumers and producers with a common, industry accepted, definition of what is meant if a product is labeled "organic). It does not attempt to deal with health issues, but merely to give consumers and producers a choice.

I have introduced Senate Bill 209 to remedy a specific failing in Alaskan statutes dealing with food products; nowhere in existing law is there any definition or standard which permits one to be certain what is meant when one purchases "organic" food.

What this means is that vegetables and other food products can now be advertised and sold as "organic" without any guarantee as to what fertilizers and pesticides may have been used or not used in their production and processing.

There is a growing body of medical evidence to suggest that, at least in part, we are what we eat. But what are we eating? We tend to think of organic produce as free of synthetic pesticides and fertilizers. SB 209 simply makes sure that this is, in fact, the case. It establishes uniform standards for organically produced foods, patterned after those used in Washington and some other states, and supported by local scientific data.

The bill is a simple protective measure that will benefit both consumers and producers who are concerned about the chemicals -- particularly pesticides, hormones and antibiotics -- that we are unknowingly ingesting in our food supply. I believe there are many who are concerned about this contamination, and who would prefer to see that Alaskan consumers have a choice in their purchases. I think this legislation will help that choice become more of a reality by making sure that growers, vendors and customers are speaking

the same language when they deal in organic produce, and that when an Alaskan says "organic", he is representing that a product has never been exposed to chemical applications.

The interest in organic foods and the recognition of their importance to human health is increasing. The recent, much publicized concern about the quantities of pesticides contained in apples and other fruits, and the hazard they may be posing for our children, is only the latest manifestation of a national trend. On the international scene, it is no secret that Japanese and European importers are reluctant to purchase many of our beef and pork products because of the quantities of antibiotics and hormones injected into American cattle.

We are unusually fortunate in that many of the fresh vegetables, potatoes, and carrots that are produced in Alaska can be raised without application of the pesticides that are so heavily relied upon in other climates. It may also be practical to raise beef and some other kinds of livestock for an organic market by utilizing a combination of local grazing lands and unadulterated locally-produced grains. We simply do not have the kind of weed and insect pest problems here that plague farmers in other states, and some of our growers may find that organic production will open a market niche in which they can compete quite successfully with outside growers.

Of course, one of the ultimate beneficiaries of any growth in this sector will be the Alaskan consumer.

STATE OF ALASKA
THE LEGISLATURE

FOURTH STATE CAPITOL
SHELDON ALASKA 995
907 465 3639

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 13, 1989

SUBJECT: Sectional analysis of CSB 209
(Work Order No. 6-0886A)

TO: Senator Jay Kerttula

FROM: Terry Bannister *TB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. States the legislative purpose of the bill.

Section 2. Adds a new chapter regulating the sale of organic and natural foods.

Sec. 03.58.010. Prohibits a person from selling or offering for sale food represented as organic if the person knows or has reason to know that the food has been grown, raised, or produced with the use of certain substances.

Sec. 03.58.020(a). Prohibits, except as provided in (b) of the section, a person from selling food represented as organic unless the name and address of the producer of the food are displayed with the food. Requires the person to give a written statement containing the producer's name and address to the purchaser if the food is not displayed at the purchase site, unless the information is on the food package. States that this subsection does not apply to a sale for consumption on the premises.

Senator Jay Kerttuia
Page 2
March 13, 1989

Sec. 03.58.020(b). Requires advertising for the mail order sale of food represented as organic ... to include the name and address of the producer of the food.

Sec. 03.58.030. Prohibits a producer from selling to a vendor food represented as organic - unless before the sale the producer provides the vendor with a sworn statement that the producer has grown, raised, or otherwise produced the food in compliance with sec. 03.58.010. Allows the producer to use a single statement for a calendar year if the producer sells the food to the same vendor more than one time during a calendar year. Defines "vendor" for the section.

Sec. 03.58.040. Requires a person who sells food represented as organic to maintain certain records and to furnish them to the department upon request.

Sec. 03.58.050. Authorizes the department to adopt regulations for the chapter, including a list of substances under AS 03.58.010(a).

Sec. 03.58.060. Directs the department to order a person who is violating the chapter or a regulation adopted under the chapter to stop the violation and to refrain from future violations.

Sec. 03.58.070. Establishes a civil fine and a criminal penalty for a violation of the chapter, a regulation adopted under the chapter, or an order issued under AS 03.58.060.

Sec. 03.58.080. Defines terms for the chapter.

If I may be of further assistance, please advise.

TLB:lmb
L7/032

FISCAL NOTE ANALYSIS -- SB 009

This bill does not obligate any agency to perform new or additional services. The fiscal impact to be calculated pursuant to AS 24.08.035 is therefore "0".

The bill does give DEC and DNR discretion to adopt regulations they may believe desirable relating to identity of chemicals prohibited in organic farming; also to require reasonable records to be maintained by sellers of organic products. Because of the infancy of the organic food industry in this state, however, it would be premature to conclude that state regulatory intervention in this area is needed or desirable. It is more likely that once statutory standards are in effect, local industry will for the most part regulate itself, as it does in other states.

It should be noted that should an authorized agency elect to pursue an investigation of any alleged misrepresentation relating to organic food, both DEC and DNR have existing inspection staff who deal regularly with meat and vegetable produce. Some investigatory work could therefore be undertaken without additional appropriation.

Nonetheless, recent experience with similar legislation in the state of Washington-- where there is a large agriculture industry and significant trade in organic produce-- indicates that enforcement effort is rarely required. Thus, even in the event that commercial traffic in organic food increased substantially in Alaska, it is unlikely that there would be any need to fund an increased regulatory presence in the marketplace.

FISCAL NOTE

REQUEST:

Revision Date: 3/13/89
Title: Natural and Organic Food
Sponsor: Senator Kerttula
Requestor: Senate Resources

Agency Affected: Natural Resources
BRU: Agricultural Management
Components: Marketing Services and Inspection

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-
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						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Because the bill does not require the department to develop or implement regulations, inspections, verification or enforcement related to natural and organic food sales, no funding is required. However, when development and implementation of regulations is desired, funding for staff and travel will be necessary.

Prepared by: Carol Wilson Phone: 465-2400
Division: Commissioner's Office Date: 3/13/89

Approved by Commissioner:  Date: 3-13-89
Agency: 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 the sale of organic and natural foods.
 Sponsor: HERTULLA
 Requestor: _____

Agency Affected: Environmental Conservation
 BRU: Environmental Health

Components: Sanitation.

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

ANALYSIS : (Attach a separate page if necessary)

The bill sponsor has stated that the role of the Department would be to enforce on a complaint only basis. With the understanding that compliance is expected to be 100% voluntary and that the Department will not routinely inspect or monitor, we are submitting a zero fiscal note.

Prepared by: Douglas C. Donegan *DCD*
 Division: Environmental Health

Phone: 465-2609
 Date: March 13, 1989

Approved by Commissioner: Dennis D. Kelso *ADW/Klf*
 Agency: Environmental Conservation

Date: 3/13/89

Distribution (by preparer):

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

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

April 12, 1989

The Honorable Johnny Ellis
Chair, House HESS Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Ellis:

Subject: Committee Substitute for Senate Bill 209 (Resources) am, relating to the sale of organic foods.

Position: The Department of Natural Resources supports this bill but will be unable to develop and implement organic food product regulations and verification procedures until funding for staff and travel is provided.

Background: Under AS 03, the Department of Natural Resources is responsible for regulating the sale or use inside the state of plants, seeds, vegetables, shell eggs, fruits, and berries, to protect the public interest and prevent product fraud, deception or misrepresentation. Currently, Division of Agriculture staff inspect farm products in storage or in retail stores to determine whether products match labeling statements related to grade, kind, etc.. If a product violates our regulations, staff can direct the possessor concerning the appropriate disposition of the product.

This bill would allow (but not require) the department to develop regulations specific to organic foods. It would also allow us to inspect products labeled organic and enforce violations of our quality or labeling requirements. Unless additional funding for staff and travel is provided, however, the department would not be able to develop organic food regulations and would not be able to determine or enforce rule violations.



UNIVERSITY OF ALASKA FAIRBANKS

School of Agriculture and Land Resource Management

Agricultural & Forestry Experiment Station

Palmer Research Center
533 E Fireweed
Palmer, Alaska 99645
(907) 745-3257

MEMORANDUM

AR 17 2089

DATE: March 3, 1989

TO: Senator Jalmar Kerttula

FROM: Allen Mitchell, Associate Director
(Ph. D. Soils and Environmental Sciences)

SUBJECT: Criteria for Organically Grown Produce

This memorandum is a follow-up to conversations that I have had with Mark Weaver regarding certain criteria for organically grown produce. The criteria discussed were related to the use of synthetic fertilizers and pesticides.

Fertilizers

Of the two categories of synthetic chemicals, fertilizers pose the least hazard in terms of human consumption of crops grown on ground to which it has been applied. In fact, of the three primary plant nutrients, nitrogen (N), phosphorus (P), and potassium (K), synthetic forms are chemically indistinguishable from organically derived forms in the soil. Also, of these three, only nitrogen poses a potential problem to human health. For example, nitrate- and nitrite-nitrogen might conceivably accumulate in plants to levels that could cause human health problems. This is a rare occurrence. Furthermore, this type of problem could just as easily occur with nitrogen from organic sources. Another concern that some have with synthetic fertilizers is from chemical impurities they may contain. One example often cited is certain phosphorus fertilizers have been found to contain potentially toxic cadmium. However, the source of this contamination is the naturally occurring rock phosphate from which it was manufactured. Organic growers do use rock phosphate as a source of phosphorus fertilizer.

For some of the above mentioned reasons as well as others, enforcement of regulations on fertilizer sources (organic vs synthetic) would be most difficult. Once incorporated in the soil, it is essentially impossible to distinguish source. It would likewise be impossible to determine how long such nutrients have been in the soil.

With this brief description of the problems, I doubt that requiring a long synthetic fertilizer-free period would be either practical or enforceable. Therefore, I would suggest that you consider a requirement that the ground to be used for organically grown produce be free of synthetic fertilizers for a period of one year.

Pesticides

Synthetic pesticides are a completely different situation. While pesticides vary considerably in their toxicity, a great number of them are potentially hazardous. Our information is incomplete, in many cases, with regard to the absolute safety of many of these products. For those individuals who want to pursue a "chemical" free diet, this is where the regulatory emphasis should be placed in my opinion. Unlike fertilizers, pesticide residues in the soil and in produce can be differentiated from natural occurring compounds. Thus enforcement of regulatory policies is possible. Additionally, soil applied pesticides tend to carry over for longer periods in some environments than in others. However, to further complicate the situation, pesticides change chemical form when they enter the soil and are acted on by soil microbes. Fortunately, the new forms are usually less toxic and eventually are reduced to harmless carbon, hydrogen, and oxygen. Again, the time required to render them harmless varies with the pesticide and soil temperatures.

There's no question in my mind that, for regulatory policy, the residence time required in the soil should be greater for pesticides to insure an appropriate degradation time. For example, the herbicide Lorox (linuron) degrades to harmless byproducts in four months in temperate climates while we have been able to measure residue in soils 12 months after application. Linuron is a very safe material from a human health standpoint and concentrations remaining after a year are harmless, but it does illustrate that pesticides can carry over for longer periods depending on environmental conditions at specific locations.

Based on the above arguments, I suggest that the law require that soil used to grow organic produce be free of synthetic pesticide application for a period of two years prior to planting a crop.

If you or Mark have any further questions, please don't hesitate to contact me. The whole question of organically grown produce is a difficult one, but it does have to be addressed. Fortunately for Alaska, we currently use substantially less pesticides than most other producing areas and we have an excellent synthetic chemical-free land base available to those who may want to enter the organic produce market.

Warning!

Your food, nutritious and delicious, may be hazardous to your health

We take for granted the steady abundance of fruits, meats, fish and vegetables that fill our markets. Or we used to. Fifty years ago, the bounty is still there. But is that shiny red apple actually a container of carcinogens? And was that firm, juicy chicken leg seed contaminated with a pesticide banned a decade ago? Or those grapes were those soft ones on the stem dented by a hand-picked stock clerk in a clumsy vineyard facing

For weeks now, fresh food and fresh questions have been answered by the nation's health agencies. The result is a series of government regulations and notices that have questioned the safety of apples, beef, chicken, eggs, fish, milk, pork and poultry. The threats were foreign and domestic, natural and man-made, real and inflated. Alone, each could be evaluated and in some cases dismissed. Together they appeared to be cause for worry about America's abundant food supply.

Last week was the worst. For five anxious days, Chile's vital \$1 billion fruit-export industry, thousands of U.S. distributors and hundreds of millions of grades, apples, peaches, pears, prunes, plums, pectinines and raspberries were held hostage by an anonymous Spanish-speaking caller and two tiny red grapes laced with minute traces of cyanide. At the same time, Americans were reacting to warnings about the domestic connection. In a controversial report, the Natural Resources Defense Council had predicted that some 6,000 American preschoolers might eventually get cancer from ingesting pesticide residues on U.S. prod-



Fresh fruit and fresh questions: Supermarket sign of the times

uce—particularly apples treated with the opening agent Alar. "Apples, cancer and children—it was all people had to see," said Jim Degnim of the Massachusetts Department of Food and Agriculture. Schools from coast to coast removed apples, apple juice, applesauce and other apple products from lunch and breakfast menus. Talk of apples was the buzz of day-care centers; organic food stores were overrun with sudden demand for pesticide-free fruit.

Meanwhile, hospitals and poison-control centers heeded calls about cyanide poisoning; worried consumers besieged grocers with demands for refunds. In Oregon, Catherine Johnson called out the state highway patrol to apprehend a school bus taking her 10th-grade daughter to a state choir festival. Troopers stopped the bus and demanded Sally's ranch, which contained a bunch of grapes. Word that a major U.S. poultry producer in Arkansas had destroyed 200,000 pesticide-contaminated chickens

added to the litany of food fears. "I've had many people call me and say 'What can I eat?'" said Tom Kovacevich, chairman of the New York City Produce Trade Association. "That has never happened before."

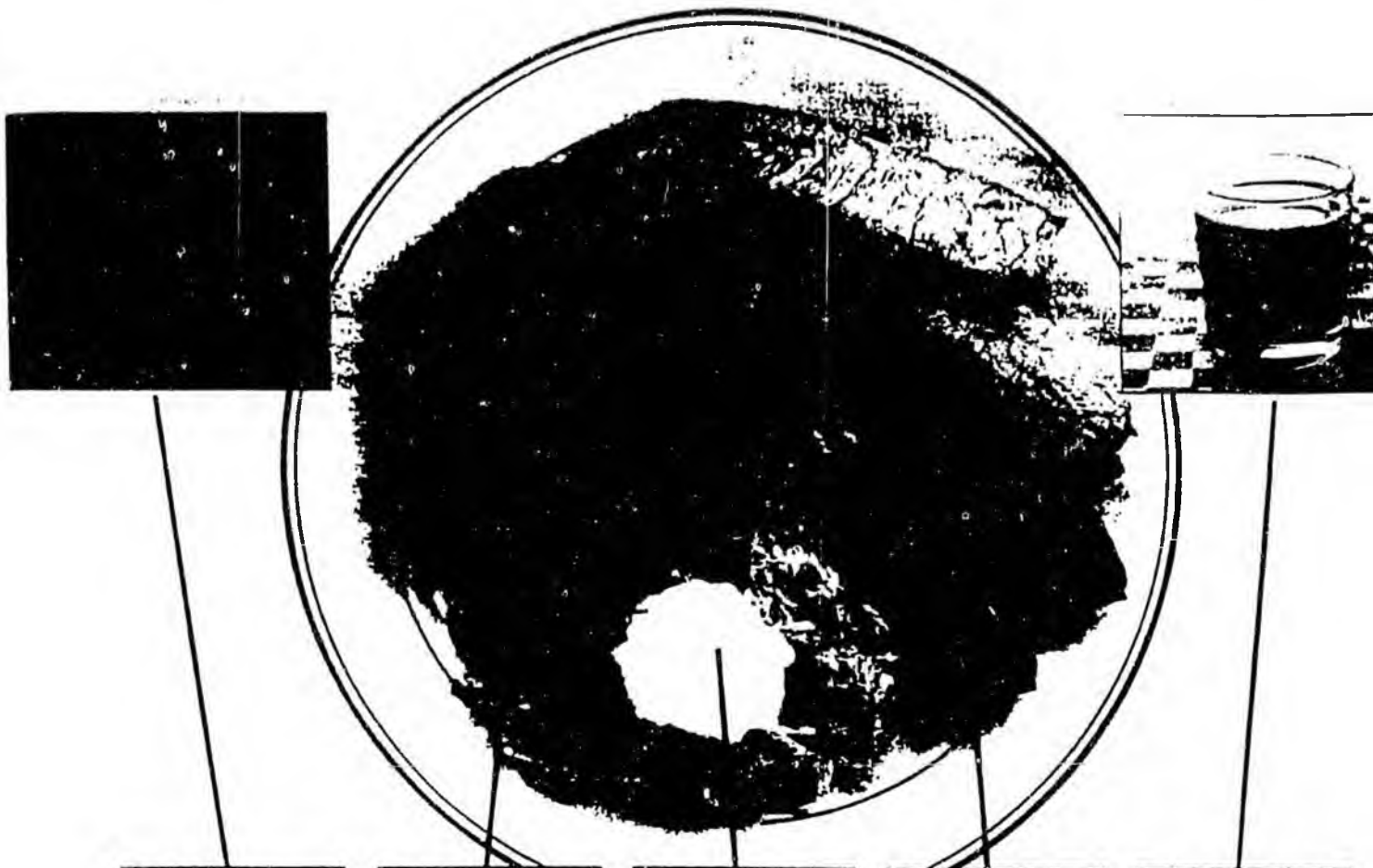
A NEWSWEEK Poll conducted last week found that a majority of Americans still have faith in the U.S. government to ensure that their food is safe (page 22). And there is good reason for their confidence. America's cornucopia of foods remains the envy of the world, both in quantity and quality. Top officials of the Food and Drug Administration and the Environmental Protection Agency assured a Senate subcommittee last week that U.S. apples posed no im-

minent health hazard. But even as they did, they expressed their own concerns that cumbersome laws and their chronic lack of resources were hampering their ability to carry out their jobs. "The public perceives its interests are not being looked at because of the process we have to follow," EPA acting deputy administrator Jack Moore told NEWSWEEK. "And my sympathies are with the public."

In truth, it was close to miraculous that FDA inspectors located the two tainted grapes amid the millions of crates arriving from Chile at this time of year. At first, U.S. officials considered the anonymous call to the U.S. Embassy in Santiago on March 21 a prank, but protectively informed the FDA. Only after a second call a few days later insisted that the warning was no hoax did the FDA double its inspections of Chilean produce being unloaded at U.S. ports. At the huge Philadelphia Toga Marine Terminal, teams of inspectors eyed incoming fruit and

What You See Isn't All That You Get

Nothing is as simple as it seems. The food you eat every day is full of hidden dangers. Here are some of the most common ones. The food you eat every day is full of hidden dangers. Here are some of the most common ones. The food you eat every day is full of hidden dangers. Here are some of the most common ones.



Apples

An apple a day used to be the prescription for health, but since 1968 consumers have been eating a side order of Alar and DMP with many of their red apples. Alar, a growth regulator, breaks down into DMP, which may be carcinogenic. The average American has 15 chances in a million of contracting cancer solely because of DMP. The government advises eating seven servings of green or yellow apples a day to offset the risk.

Broccoli

Broccoli farmers are allowed to use about 50 different pesticides on their crops. Among them is parathion, a possible human carcinogen. The EPA can only inspect 10 percent of the produce to make sure that residues are within legal limits. Washing and cooking broccoli can help to lower the risk of cancer. The government advises eating seven servings of green or yellow vegetables a day.

Eggs

Raw or undercooked eggs, such as those in homemade mayonnaise, pose a risk of salmonella poisoning. This disease may strike as many as 4 million Americans a year. The government inspects both chicken and eggs for salmonella infection. Outdated grade-A eggs have reached store shelves. Make sure you are getting fresh eggs. Many other risks, such as salmonella poisoning, are easily avoided by cooking eggs until the whites and yolks are no longer runny.

Beef

Cattlemen put hormone implants in steers when the animals reach the feedlot, typically between the ages of 11 and 20 months. The hormones remain in the animals' tissues after slaughter, when they are inspected by the USDA. The levels are roughly equal to those in untreated cattle. Also, some cattle eat feed containing low doses of antibiotics. These can produce resistant bugs that might cause human disease.

Milk

Milk sold in certain paperboard containers may become contaminated with dioxin, one of the most potent animal carcinogens known. Government milk inspections could not necessarily catch this form of contamination. It is not yet clear exactly how much of a risk dioxin in milk poses. While the scientific jury is still out, nervous consumers can ease their fears by buying their milk in glass or plastic containers.



Local option: New York inspector Rudolph Albanese

Monitoring meat and poultry falls to the USDA, as it has since the days of Upton Sinclair. With a budget 10 times that of the FDA's, USDA inspectors physically examine every single piece of meat and poultry at 7,000 slaughterhouses and processing plants. Inspectors also spot-check for chemical and bacterial problems that aren't visible. Of the problems they do encounter, heptachlor, the pesticide found in the Arkansas chickens, is a common one. The EPA banned its use on food products in 1978, but allowed farmers to use up existing stocks on grain not destined for the food chain. Still, some farmers illegally mix it with feed seeds. That was apparently the case in Arkansas; authorities have yet to find the culprit.

In general, food-industry officials and public-health authorities alike worry far more about microbiologic threats to the food supply than chemical residues. Salmonella is a persistent problem—affecting an estimated one in every three broilers. Yet Congress has rejected attempts to mandate safety levels and sampling programs for such natural contaminants—in part due to industry pressure. Every commodity has its congressman, says Ellen Hass of the Public Voice for Food and Health Policy. "Aflatoxin is another natural, aflatoxin burning toxin. State and federal checks have found high levels in corn this year, due to last summer's drought. But experts inside government and out say that is no cause for panic. Afla-

toxin does not affect sweet corn consumed directly by humans. Federal and state checks of cattle theoretically eliminate the danger that it passes through animal feed into meat. Aflatoxin is generally destroyed by heat in making corn products—cornmeal or other processed foods. The fact that it has turned up in milk, which is then dumped, is good, not scary, says the FDA's Catherine Carnevale. That means we are testing.

Private industry provides additional checks for contaminants that slip past government regulators. Most consumer product companies say their own safety standards far exceed government limits. For the most part, their practices are commendable. But American consumers have learned to be wary. Even David Letterman

lined in the cynicism last week. Among his "Top 10 New Slogans of the National Fruit Council?" "Would a giant prong-oriented cartellie to you?" Indeed, while most major apple-product companies insisted they stopped accepting Alar-treated fruit years ago, California authorities found a curious phenomenon last week: the raw apples they tested were mostly Alar-free, yet every processed apple product they sampled contained traces of the chemical.

Even when private industry safeguards fail, experts say that the real danger of most chemical residues is from long-term exposure. For that, the FDA has one major overall safety check. Since 1961 the agency

has conducted total dietary surveys, but missing the same 234 food items, based on studies of what Americans eat, in four places in the country. The FDA was never able to take and serves them just as a consumer would and analyzes residue levels. Inconsistent contaminants fall well below the EPA standards for safety and are far safer than those set by the World Health Organization.

Those assurances pale against the prospect of deliberate terrorism. How easy is it for a terrorist to inject something into a few crates of fruit—in the docks, in the fields, on the boats? Very easy, said one FDA investigator who asked not to be named. In the past, terrorists have targeted Israeli produce facing oranges in France and West Germany with mercury in 1978, and injecting blue dye into grapefruits in Rome last April. In 1984, Japanese extortionists found themselves *The Man With 21 Faces*, threatened to place cyanide-laced chocolates on shelves in an effort to extort money from a candy company. No one was hurt. America's own experience with "lover the counter" terrorism was more tragic. Investigators have never found the madman who randomly murdered several Chicago-area residents in 1982 with cyanide-laced Tylenol capsules, nor his twisted motive. But that incident did spur strict tamper-proof packaging on all over-the-counter medications.

Protecting food products is far more difficult, particularly at the retail level. A average customer may handle 10 steak before purchasing any; a vandal could tamper with one without arousing suspicion. As of last week, FDA officials had re-

quests to require more packaging around food products. Most experts say it wouldn't be effective anyway. "You could be boomerang something right through the overwrap," says Ada Shinabarger of Michigan State University's agricultural cooperative extension. U.S. authorities do have one new weapon against copycat terrorist threats: an AT&T phone system that permits immediate identification of a caller's location. But no amount of technology can erase the impact of the past several weeks. The weekly trip to the supermarket has become a much more complicated and risky business.

MELINDA BECKER
MARY HAZARD/PHIL MARK MILES
WASHINGTON, D.C. HEY/PHIL
THE NEW YORK TIMES
PHOTOGRAPH BY NADINE LUKA
SEE PAGES 10 AND 11 FOR DETAILS

You Can't Just Buy American

The United States is still the food basket for the world, but it's importing meat, fish, fruit and vegetables.

COMMODITY	UNITED STATES VALUE (\$ MILLIONS)	MAJOR COUNTRIES OF ORIGIN
Shrimp	\$2.7	Mexico, Ecuador, Canada
Coffee*	\$2.5	Brazil, Colombia, Mexico
Beer and veal	\$1.7	Australia, New Zealand, Canada
Pork	\$.9	Canada, Denmark
Orange juice	\$.6	Brazil, Mexico
Cheese	\$.4	New Zealand, Italy
Spices	\$.3	Chile
Tomatoes*	\$.2	Mexico, Italy
Eggs**	\$.1	China, Canada, France
Vealons	\$.1	Mexico

*EXCLUDES WINE AND VINEGAR. **EXCLUDES BATTERED EGGS AND EGG SALAD. SOURCE: U.S. DEPARTMENT OF COMMERCE, BUREAU OF ECONOMIC ANALYSIS

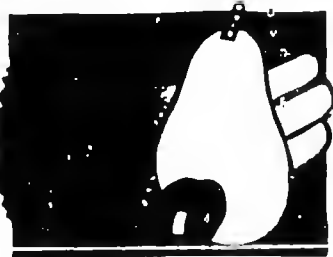
A Guide to the Grocery

Keep eating fruits and vegetables, but be careful—and wash your hands!

BY SHARON BECKETT AND MARY HAYES

If it isn't poisoned U.S. grain, it's tainted Arkansas chickens. Then it's *Salmonella* milk. Chemicals in armies. Eating is beginning to seem like a hazardous enterprise, and there are indeed real risks out there. The trip to the grocery has become a cost-benefit game. Here's how to play.

Don't believe all the scare stories. Look for evidence, look for numbers—actual illnesses, quantified cancer risks—and beware of terms like "trivial." What may be a small risk to industry is unacceptable to a mother. Then, *understand* the numbers. The average American has a one-in-four chance of getting cancer. A low prediction of death-excess cancers in today's preschoolers seems like a miracle, but that's a mathematically equivalent to an increase in risk from 20 to 25 percent. Support the benefits. Some milk that may have high traces of growth also provides protein, calcium and vitamin D. The biggest food risk—microbial contamination—kills thousands each year, but can be avoided with better cleanliness. Another high risk is poor diet, such as one high in fat or salt. Here is NEWSWEEK's guide to the grocery.



Fruits and Vegetables

Farmers apply hundreds of chemicals every year to control weeds, fungi or insects on produce. What's deadly to a corn borer may not be exactly healthy for people. The Environmental Protection Agency says pesticide residues pose the third highest threat of environmentally induced cancer, behind cigarettes and radon. Many pesticides were approved in these decades before researchers had good tests of their toxicity, and many still remain on the market.

The recent controversy led forth by the environmental group Natural Resources Defense Council, NEWSWEEK Jan. 10, concludes that some common kids are exposed to neu-

rotic pesticides above what the EPA considers an "acceptable" level. And because children eat relatively more fruits and vegetables than adults, they receive several times the exposure to carcinogenic pesticides than their parents. As a result, says the NRDC, 3,500 to 7,000 preschoolers die each year, eventually because of their food exposure to just eight pesticides. A 1987 study by the National Research Council showed now dangerous food is allowed to be. The NRC examined cancer risk from about 20 out of 60 pesticides known to be carcinogenic. It found that if all produce had the maximum allowable residue of every pesticide approved for use on it—more than 110 on apples, 75 on bell peppers, 100 on tomatoes—Americans would face a cancer risk of three percent over a 70-year lifetime.

The good news is that real risks are not this bad. In 1988 the FDA found the residue at all in 77 percent of 14,492 food samples, less than 1 percent had abnormally high residues. And instead of using every permitted pesticide every year, farmers use only those necessary for

that season's pest—say, 12 on apples, for instance, in the winter 11.

Fruits and vegetables also contain natural poisons, some of which may cause cancer. Biochemist Bruce Ames of the University of California, Berkeley, estimates that people ingest 10,000 times as much natural pesticides as man-made ones. The EPA can't do anything about nature. But it is re-evaluating all 300 agricultural pesticides with an eye toward banning the allowable residues or banning some chemicals entirely.

While that goes on, remember that fruits and vegetables such as broccoli and carrots provide nutrients that have been linked to *reduced* risks of cancer. The National Research Council recommends that Americans eat five or more servings of produce a day, especially citrus fruits and green and yellow vegetables. To lessen your risk from any lingering pesticides, wash all produce with soap and water. If you can't bear the sight of a saucy cabbage leaf, cook your vegetables; the heat will eliminate some residues. For a good primer on residues, try the Sierra Club book "Pesticide Alert."



Apples

To many confused consumers, apples now look like the poisoned fruit of the Snow White tale. Since 1965 some red varieties have been sprayed with the suspect chemical daminozide, made by Uniroyal Chemical Co. under the trade name

and. This growth regulator coats apples from dropping off trees before they ripen. It slows color and firmness and extends shelf life. But the chemical penetrates the pulp and cannot be washed, cooked or peeled off. In 1985, owing to consumer pressure, processors and stores pledged not to accept Alar-treated apples.

Some seem to have reneged. Next week Consumers Union will announce whether most apples bought this year contain traces of Alar, as did 1988 samples. It's already reported apples at some brands of juice bought in 1988 as high as 70 parts per million—high enough to pose a risk of cancer much greater than the one in a million which prompts EPA action. There are wide regional disparities in Alar levels in eating apples. New York officials said last week that as much as 20 percent of their 1988 crop was sprayed with Alar. The EPA's estimate that only 5 percent of the domestic crop is sprayed may be way too low.

The real culprit, however, is not Alar, but its breakdown product called UDMH. This chemical cousin of rocket fuel forms when Alar is heated, as during processing into sauce or juice. Also, traces of it can be found in the Alar itself which is sprayed in the orchard. Uniroyal's latest data on daminozide show that it is probably not carcinogenic. The still preliminary UDMH data are more worrisome: the EPA calculates that UDMH in apple products, consumed in amounts that may underestimate actual eating patterns, poses a cancer risk of 45 in a million over a lifetime. The EPA says it intends to ban Alar within 18 months. For a baby who drinks one ounce of apple juice a day, the risk of getting cancer because of the juice drunk over that waiting period is nine in a million. A toddler drinking

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

April 14, 1989

The Honorable Curt Menard
Co-Chairman
House Resources Committee
P.O. Box V
Juneau, AK 99811

Subject: Amendment of SB 209 (Sale of organic food)

Dear Representative Menard:

Attached is an amendment to SB 209 which this office recommends be adopted in order to clarify that the enforcement options in SB 209 are in addition to and not instead of enforcement which may be available under Alaska's Unfair Trade Practices and Consumer Protection Act. If the committee does not wish to amend the bill, we recommend as an alternative that a letter of intent be adopted which basically confirms legislative intent that the enforcement proceedings under SB 209 are in addition to and not instead of those available under AS 45.50.471-45.50.561.

If you have any questions, please call the undersigned at your convenience.

Sincerely,



Gary I. Amendola
Assistant Attorney General

GIA/bt

Attachment

cc: Senator Kerttula
Rob Mintz
Bob Evans