

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6209 SENATE C&RA

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ANALYSIS OF THE FISCAL IMPACT OF SB 55

This bill would transfer some administrative responsibilities for issuing coastal management consistency determinations from the Departments of Environmental Conservation, Fish and Game, and the Division of Governmental Coordination (DGC) to the Department of Natural Resources (DNR). The bill would direct DNR to coordinate the review of projects that require permits on state or federal lands and water. Review of projects on private land that require two or more state or federal permits would be coordinated by DGC. The review of projects on private land that require a single state permit would be coordinated by the state permitting agency.

The fiscal effect of SB 55 on DGC would be a slight reduction in workforce. DGC coordinates project reviews on a decentralized basis. Regional offices in Fairbanks, Anchorage, and Juneau provide a direct contact point for permit applicants to access the state's project review process. Although the number of project reviews coordinated by DGC may decline under SB 55, the regional office structure would be maintained to provide permit applicants on private lands with the services provided applicants on state or federal lands. Fiscal reductions to DGC under SB 55 would include the following:

- 100 - Personnel . . . . 159.7 (3.0 FTE)  
Reduction of 1 FTE from each regional office.
  
- 200 - Travel . . . . 5.0

lv89020301kfk

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 55

PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

OFFICE OF  
MANAGEMENT & BUDGET

REQUEST:

Revision Date: 7-Feb-89  
Title: An Act relating to the issuance of permits and consistency determinations  
Sponsor: Senator Pearce  
Requestor: Senator Pearce

Agency Affected: Natural Resources  
BRU: Land & Water, Forestry, Mining Management, Parks, Petroleum  
Components: Land & Water, Forestry, Mining, Hist Res Mgmt, Petroleum, Admin Svcs

~~COORDINATION~~

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		676.8	678.8	680.9	682.8	684.9
TRAVEL		61.0	61.0	61.0	61.0	61.0
CONTRACTUAL		99.5	99.5	99.5	99.5	99.5
SUPPLIES		13.0	13.0	13.0	13.0	13.0
EQUIPMENT		27.5	2.0	2.0	2.0	2.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	877.8	854.3	856.4	858.3	860.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	877.8	854.3	856.4	858.3	860.4
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	877.8	854.3	856.4	858.3	860.4

POSITIONS:

FULL-TIME		14.0	14.0	14.0	14.0	14.0
PART-TIME		4.0	4.0	4.0	4.0	4.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Carol Wilson

Phone: 465-2400

Division: Commissioners Office

Date: 7-Feb-89

Approved by Commissioner: Lennie Gorsuch

Date: 7-Feb-89

Agency: Department of Natural Resources

Distribution (by preparer) :

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

ANALYSIS OF THE FISCAL IMPACT OF SB 55

This bill would transfer some responsibilities for issuing coastal management consistency determinations from the Department of Environmental Conservation, the Department of Fish and Game, and the Division of Governmental Coordination (DGC), to the Department of Natural Resources (DNR). The bill would direct DNR to coordinate the review of projects that require use of state or federal land and water. Review of projects on private land that require two or more state or federal permits would continue to be coordinated by DGC. The review of projects on private land that require a single state permit would be coordinated by the state permitting agency.

This bill would increase the workload of DNR resource management divisions as well as the department's management division. The major portion of the consistency review workload would be assumed by the Division of Land and Water Management. But the Division of Forestry, the Division of Mining, the Division of Oil and Gas, and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation, would also assume considerable new tracking, processing, and coordinating tasks under this bill. Assumption of these new tasks would require the following additional funding:

Division of Land and Water Management:

100 Personal Services.....290.8

Central Office:

1 Natural Resource Manager I

Southcentral Regional Office:

2 Natural Resource Officer II

1 Clerk Typist III

Northern Regional Office:

1/2 Natural Resource Officer II

1 Clerk Typist III

Southeast Regional Office:

1/2 Natural Resource Officer

1 Clerk Typist III

200 Travel.....40.0

Staff travel required for on-site inspections and appraisals of proposed activities.

Staff travel to review federal activities and demonstrations.

Travel for regional permit coordinators to attend staff meetings at the central office in Anchorage.

Travel for the director to meet with industry representatives, permit applicants, and state agency representatives regarding the consistency review program.

Per diem for the travel described above.

300 Contractual.....77.0

Local and long distance telephone service, postage and telex expenses, contract payments on telephone equipment for central office and three regional offices.

Hook-up charge for computer terminals to mainframe; courier services; printing, duplication, and related expenses to ensure project review materials are available for necessary agency and public reviews.

Service agreements on owned equipment, including computer equipment, photocopiers, and postage machines.

Photocopy equipment rental and paper charges for central and regional offices.

400 Supplies.....8.0

Office supplies, computer diskettes, printer cartridges and ribbons.

500 Equipment.....16.0

File cabinets, computer terminals and associated furniture.

Total DL&WM funding required.....431.8

Division of Forestry:

100 Personal Services.....118.5

Southeast Region:

1 Forester II

1/2 Clerk Typist II

Southcentral Region:

1 Forester II

1/2 Clerk Typist II

200 Travel.....1.0



300 Contractual.....10.0  
500 Equipment.....3.0  
Total Division of Oil and Gas funding request.....148.6

Division of Management:

100 Personal Services.....45.2  
    1 Accounting Technician III  
300 Contractual.....4.0  
400 Supplies.....2.0  
500 Equipment.....3.5  
Total Division of Management funding request.....54.7

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Issuance of Permits and  
Consistency Determinations  
Sponsor: Pearce  
Requestor: \_\_\_\_\_

Agency Affected: Dept. of Fish and Game  
BRU: Habitat  
Components: COORDINATION

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by Frank Rue, Director Phone: 465-4105  
Division: Habitat Date: 2/10/89  
Approved by Commissioner: [Signature] Date: 2/13/89  
Agency: Department of Fish and Game

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

FISCAL NOTE

FEB 16 1989

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to the issuance of permits and consistency determinations  
Sponsor: Senator Pearce  
Requestor: Senator Pearce

Agency Affected: Environmental Conservation  
BRU: Environmental Quality  
Components: Water Quality Management, Wastewater and water treatment, Hazardous and Solid Waste Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		( 2.0)	-0-	0	0	0
TRAVEL		( 1.0)	-0-	0	0	0
CONTRACTUAL		( 5.0)	-0-			
SUPPLIES		( 2.0)	-0-			
EQUIPMENT		-0-				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	(10.0)				

CAPITAL	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94

REVENUE	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	(10.0)	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Doug Redburn Phone: 465-2653  
Division: Environmental Quality Date: 2/13/89

Approved by Commissioner: [Signature] Date: 2/13/89  
Agency: Dept. of Environmental Conservation

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

## ANALYSIS OF THE FISCAL IMPACT OF SB 55

This bill would transfer some administrative responsibilities for issuing coastal management consistency determinations from the Department of Environmental Conservation (DEC) to the Department of Natural Resources (DNR). Specifically, DNR would be required to coordinate those single-agency consistency reviews currently coordinated by DEC for projects on state and federal land and water. The permits principally involved would include coordination duties associated with the solid waste permit and wastewater discharge permit. The lead technical review of these permits would remain with DEC. Interagency and coastal district coordination would shift to DNR.

DEC participates in most ACMP consistency reviews as a reviewer rather than a coordinator. In most instances, if a DEC permit or approval is needed, other state or federal permits will also be required and the Division of Governmental Coordination (DGC) acts as the coordinating agency. Also, DEC has a number of its permits and approvals on the expedited review lists (ie. categorically consistent and general concurrence). Permits on these lists have already been found to be consistent with the ACMP, hence, there is no need for a coordinated consistency review.

Based on permit records for FY 1988, DEC acted as the single-agency consistency coordinator for 52 permits statewide (20 in Southeast; 19 in Southcentral; 13 in the Northern office). DEC participated as a coastal consistency reviewer in approximately 1000 project reviews statewide in FY 88. DEC does not keep track of whether project reviews are conducted on state, federal or private land. DGC, however, estimates that approximately half of the projects they review are for activities on private land. Therefore, assuming that half of the DEC-coordinated reviews are on private land (and would not be transferred to DNR for coordinating), an estimated 2% (or 26 reviews) of DEC's current responsibilities for coordinating or participating in consistency reviews would be transferred to DNR. Time spent telephoning agencies and coastal districts, copying and mailing costs for proposed consistency determinations, and travel to resolve disputes constitute major costs.

The fiscal effect of SB 55 on DEC would be a slight reduction in permit coordination responsibilities. This reduction is reflected in the attached fiscal note.



Zone

Coastal

Alaska's

In

State Permits

For

Apply

HOW TO



The State of Alaska has a streamlined, coordinated system for reviewing applications and issuing permits for proposed projects that would affect natural resources in Alaska's coastal zone. It's called the *consistency review process*.

This brochure briefly outlines the consistency review process for applicants seeking resource-related state and federal permits.\* The review process is more fully explained in state regulation 6 AAC 50. The consistency review process does not cover business licenses, municipal authorizations, or projects outside the coastal zone.

### The Consistency Review Process Provides

- Quick answers to whether your project is in the coastal zone and what permits you need.
- A one-stop, consolidated state response to coastal development projects and related state and federal permit applications.
- Specific timeframes and deadlines for permit issuance.
- A fast appeal process.

\* Federal agencies, please contact the Division of Governmental Coordination regarding procedures for direct federal actions.

### The State Permitting Process

The consistency review process is based on the Alaska Coastal Management Program and is designed to improve management of Alaska's coastal land and water uses. Project proposals are reviewed to:

- Determine the project's consistency with the Alaska Coastal Management Program.
- Identify permits required by the state resource agencies, that is, the Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources.
- Trigger the issuance of necessary permits and other authorizations by state resource agencies.

### Who Handles The Consistency Review Process?

If a federal permit or permits from more than one state agency are required, the consistency review process is coordinated by a regional office of the Division of Governmental Coordination in the Office of the Governor. If permits from only one state agency are required, the state agency responsible for issuing those permits coordinates the review.

## To Start

Project applicants should complete the *Coastal Project Questionnaire* to determine which permits are needed. *Note: Placer miners see below.*

Copies of the questionnaire are available from the Division of Governmental Coordination (DGC), the resource agencies, or the U.S. Army Corps of Engineers (COE). Regional DGC contacts are shown on the back of this brochure. The COE has a toll-free telephone number: 1-800-478-2712.

Filling out the questionnaire properly is important and will help agencies process your project application without delays. If you have any questions or need assistance, contact a regional DGC or state agency office (listed on the questionnaire). The questionnaire includes a *Certification of Consistency* which must be completed and signed by you to meet federal requirements.

The Coastal Project Questionnaire will help identify which permits are needed, your contacts for the consistency review process and the DGC regional office that will be working with you.

Placer miners should submit a *Triagency Application* to the Department of Natural Resources (DNR) instead of completing the Coastal Project Questionnaire. Contact the DNR Division of Mining and Geology, or the nearest DGC regional office for more information.

## Preapplication Meetings Can Save You Time

Before you settle on your final project plans and submit your application, the state can arrange for meetings between you and state agency representatives. These can help identify concerns and information needs, and encourage a mutual understanding of the project. To arrange for a preapplication meeting, call or write the coordinating agency contact.

## Review Begins When The Application Packet Is Complete

Consistency review begins upon receipt of your complete application packet, which will be prepared by you and the agencies. A complete packet includes:

- The Coastal Project Questionnaire and signed Certification of Consistency.
- Copies of any state permit applications needed for the project (originals go to the state agency issuing the permit).
- Copies of any federal permit applications needed for the project (originals go to the federal agency issuing the permit).
- Any additional pertinent information including public notices from agencies.

### Who Reviews The Project?

The participants in the review process include:

1. You, the applicant
2. State resource agencies and the Division of Governmental Coordination
3. The affected local coastal community
4. Other interested members of the public

### Steps in the Review Process

#### Start-up

You will be notified when the review starts. You will receive your project's assigned review number, review schedule, and other information.

#### Information Requests

Agencies may request additional information from you up to the 25th day of the review. The coordinating agency may stop the review until that information is received.

#### Proposed Determination

After reviewing comments on the packet, the coordinating agency will develop a proposed consistency determination. It will be discussed with your state resource agencies and coastal districts.

#### Conclusive Determination

A conclusive consistency determination will be issued upon agreement of the proposed determinations.

#### Permits

Agencies will issue state permits covered by the determination within five days after the conclusive consistency determination is issued.

see other side →

Please send more detailed information on:

- Alaska Consistency Review Process
- The Alaska Coastal Management Program

I would attend a consistency review process workshop scheduled in my area.

Yes \_\_\_\_\_ No \_\_\_\_\_

Name \_\_\_\_\_

Organization \_\_\_\_\_

Street (or Box #) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

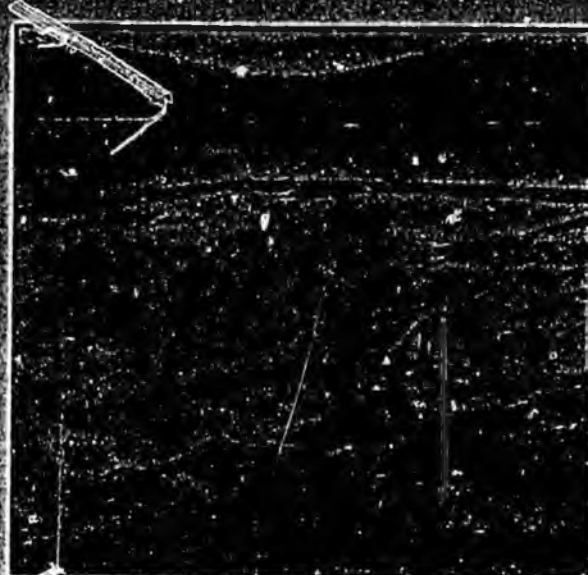
Division of Governmental Coordination  
 Office of the Governor, State of Alaska  
 P.O. Box AW  
 Juneau, Alaska 99811

### 30-Day and 50-Day Review Schedules

Federal and state public notice requirements determine the review schedule for your project. A 30-day review schedule will be used if a public notice is not required and all associated state permits can be issued in 30 days. A 50-day review schedule will be used for projects with approvals requiring a public notice. These schedules limit the amount of time state agencies have to review your project and issue state permits if the project is found consistent with Alaska Coastal Management Program standards.\*

	30-Day Review	50-Day Review
Consistency review begins	Day 1	Day 1
Deadline for regional reviewers to request additional information	Day 15	Day 25
Public and agency reviewer comments due	Day 17	Day 34
Notification of preliminary determination	Day 24	Day 44
Request for elevation	Day 29	Day 49
Conclusive consistency determination issued (unless elevation requested)	Day 30	Day 50
If elevated, director's determination	Day 45	Day 65
If elevated again, commissioner's determination	Day 60	Day 80

\* These schedules may be extended only under circumstances outlined in 6 AAC 50.110.



### Elevation (Appeal) Process

If you do not concur with the proposed determination on your project, you may request *elevation*, or further review by division directors within the state resource agencies. The directors review the proposed determination and any additional information included in the elevation request, then issue a second proposed determination.

You may then elevate the review to the commissioners of the resource agencies if the director-level review does not satisfy your interests. This is the final step in the administrative appeal process.

Each elevation review can take no longer than 15 days. State resource agencies and coastal districts may also request elevation. In actual practice, elevation has rarely been required.

### For More Information

About a specific project, contact the DGC office nearest you:

Southeast Regional Office  
Division of Governmental  
Coordination  
P.O. Box AW, Suite 101  
431 North Franklin Street  
Juneau, AK 99811-0165  
Phone: (907) 465-3562

Southcentral Regional Office  
Division of Governmental  
Coordination  
2600 Denali Street, Suite 700  
Anchorage, AK 99503-2708  
Phone: (907) 274-1581

Northern Regional Office  
Division of Governmental  
Coordination  
Station H  
675 Seventh Avenue  
Fairbanks, AK 99701-4596  
Phone: (907) 456-3084

If you have any questions about the *Consistency Review Process* or the *Alaska Coastal Management Program*, contact:

Division of Governmental  
Coordination  
P.O. Box AW  
431 North Franklin Street  
Juneau, AK 99811-0165  
Phone: (907) 465-3562

BERING STRAITS COASTAL MANAGEMENT PROGRAM

P.O. Box 10  
Unalakleet, Alaska 99684  
(907) 624-3062

January 24, 1989

*marks*  
*pls reply*  
*D*

Honorable Al Adams  
Chairman, Community and Regional Affairs Committee  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Re: Senate Bill 55

Dear Senator Adams:

The Bering Straits Coastal Management Program (BSCMP) has reviewed Senate Bill 55, "An act relating to the issuance of permits and consistency determinations".

From our perspective, this is another of a continuing series of legislation that is introduced each year to undermine the intent of the Alaska Coastal Management Act (ACMA) to provide for the wise and balanced management of our resources. Another good example of such legislation is HB 212 which was introduced last year. For your reference, I have enclosed a copy of the comments submitted by the Bering Straits Coastal Resource Service Area Board on HB 212 and, by reference, incorporate them herein.

Legislation such as this undermines the intent of the ACMA to provide an ongoing and active process for meaningful local participation in the state's decision making process for resource management. The BSCMP does not support this type legislation and strongly urges you not support SB 55.

The BSCMP also takes issue with the findings of SB 55. We do not believe that the findings accurately reflect the long term positive impacts the consistency review process has had on the state's economy. As we understand it, the need for permits is determined by the type of activity, not the area an activity is located in. Within the coastal zone, the ACMP provides specific time frames for permit reviews to be conducted in. In areas outside the coastal zone, there are no such time frames. Consequently, permit reviews outside the coastal zone consistently take longer. Stated in other terms, the ACMA provides for an expeditious review and issuance of permits.

## BERING STRAITS COASTAL MANAGEMENT PROGRAM

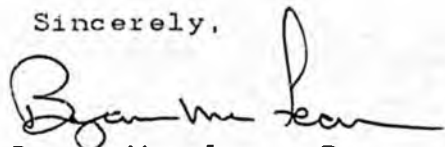
To the best of our knowledge, the ACMA does not require any new permits, nor does it give any agency the authority to require new or additional permits. Rather than creating a proliferation of permit reviews, the ACMA provided for the consolidation and timely processing of permit reviews. A review of the record should show that permits issued in areas outside the jurisdiction of the ACMA take longer to process than those in areas subject to the jurisdiction of the ACMA.

By designating the Department of Natural Resources (DNR) as the lead agency on all consistency reviews, involving federal permits, OCS activities, and for development activities on state lands/waters, SB 55 effectively removes the critical role of the Department of Governmental Coordination (DGC) from the consistency review process and in so doing essentially eliminates meaningful public participation. By designating DNR as the lead agency on consistency reviews, SB 55 is usurping the authority and expertise of the Department of Fish and Game (DF&G) and the Department of Environmental Conservation (DEC).

Instead of providing recognition of the specific expertise and mandates the various resource agencies have, SB 55 explicitly removes the expertise and overrides the mandates of agencies established to provide management of specific resources. We are also concerned that the intent of section 3h of SB is unclear. Is it attempting to make the statewide standards of the ACMP applicable to the whole state? Or is it attempting to overrule the Coastal Policy Council, that has established that under certain circumstance, in certain areas, district policies may be applied to areas that are adjacent to, yet outside of a district's approved boundaries?

In our opinion SB does not add to sound public policy and we strongly urge you not to support this legislation. If SB 55 is scheduled for any public hearings, we would like to be notified, so we can testify. In the meantime, if you have any questions, please don't hesitate to contact our office.

Sincerely,



Bryan Mac Lean, Director

# NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69  
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



March 13, 1989

OFFICE OF  
MANAGEMENT & BUDGET

MAR 20 1989

GOVERNMENTAL  
COORDINATION

Al Adams, Chairman  
Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V, Room C-128  
Juneau, Alaska 99811

RE: SENATE BILL NO. 55 - COMMENTS ON PROPOSED CHANGES TO COASTAL  
CONSISTENCY DETERMINATION PROCESS

Dear Al:

Thank you for your interest in our opinion regarding Senate Bill 55. We have three points that we would like to make regarding the proposed amendments. The following comments are based upon our experience with the coastal consistency process as it is currently handled in the Northern Region:

1. In Section 1, the bill's findings, which states that it is attempting to reduce delays in the permitting process. To that end, the bill proposes to eliminate the Division of Governmental Coordination (DGC), of the Office of Management and Budget, as the coordinating agency in issuing final consistency determinations. We are not aware of DGC being responsible for any delays or being delinquent in the issuance of final consistency determinations. As the coordinating agency, DGC must adhere to specified timelines for processing consistency reviews, as set down in 6 AAC 50.110. Consistency determinations can be issued earlier if all of the review agencies submit their comments prior to comment deadlines. However, DGC has no influence over the speed of the agencies' review in commenting, nor would any other lead agency designated as a result of this amendment. Therefore, the change proposed by this bill does not achieve the goal of speeding the permitting process.

2. This bill proposes to designate lead agencies for processing permits. Of concern regarding this proposed revision is the opportunity it gives to designated lead agencies to enforce their particular bias relating to their area of expertise. Each agency tends to view its special concerns as paramount in assessing a proposal. This concern is especially raised by the proposed amendment in subsection (f), Section 3, which states that, " a lead agency may make a recommendation contrary to that received from another agency". The advantage in using DGC to balance the review agency comments in creating the final consistency determination is its lack of institutional bias concerning environmental, social, and developmental concerns, thus enabling a more even-handed analysis of issues.
  
3. Subsection (f) Section 3 of the bill proposes that the lead agency only consider information provided by another state agency or coastal resource district in formulating a consistency determination. The law as it is currently written requires DGC to consult a much broader range of interested parties for comments; local, regional, state and federal officials, private groups and individuals, officials of other countries, provinces, and states; and to hold public hearing if DGC deems them to be desirable. Under this system, the concerns of the residents of the North Slope, A.E.W.C., the village councils, the village corporations, etc., can be directly expressed to DGC and considered in the final consistency determination.

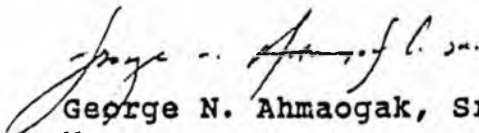
Under the proposed revision, the concerns of the North Slope Borough citizens and groups will only be represented by the comments issued to the lead agency by our office. The time allotted for our office to solicit those comments would be considerably less than that now possible with DGC directly soliciting comments from interested citizens and groups.

As stated earlier, timelines for the issuance of consistency determinations are already set by 6 AAC 50.010. Those timelines are not affected by the consultation process. Therefore, this proposed change does nothing to increase the efficiency of the permit process.

Senate House Bill No. 55 Comments  
March 13, 1989  
Page Three

In conclusion, we do not believe that the amendments proposed in Senate Bill No. 55 will not do anything to correct the stated findings that the efficiency of the permitting process is encumbered by the actions and numbers of state agencies involved. It has also been our experience that the state agencies in most instances have not been unjustified in their information requirements, nor have they been tardy in the issuance of permits. We do not support the changes proposed in this bill, nor the reasoning behind it.

Sincerely,

  
George N. Ahmaogak, Sr.  
Mayor

cc: Edward Itta, Chief Administrative Officer  
Jan Caulfield, Division of Governmental Coordination  
Dennis Roper, Industrial Development  
Warren Matumeak, NSB Planning Department  
Dave Germann, NSB Permitting Division



# CITY OF NOME

*Maths*  
*TLCs*  
*A*

P.O. BOX 281 - NOME, ALASKA 99762  
TELEPHONE (907) 443-5242

February 15, 1989

The Honorable Al Adams  
Chairman, Community & Regional Affairs Committee  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Re: S.B. 55 "An Act relating to the issuance of permits and consistency requirements."

Dear Senator Adams:

Your request for Nome's consideration on SB 55 arrived at a most opportune time: The Nome Planning Commission was able to review the drafted legislation at its regular meeting, February 14.

The opinions expressed by the members were: There is a special need to have a lead agency that can and will "make recommendations contrary to a recommendation received from another agency." (P.3, lines 22, 23 & 24.) The existing problem, especially for mining companies, is the extreme delays that can occur because there is no lead agency and permits are held until a consensus or compromise can be fashioned for all departments and agencies.

The second comment was the need for expertise is apparent. The lead agency should be the most knowledgeable and be adequately staffed to give advice, over-ruling interagency disputes and provide a permitting service to the private sector. Too often the private individual must spend time going from agency to agency, a lead agency could route information, act as a clearing house and make a decision. This would benefit both industry and government.

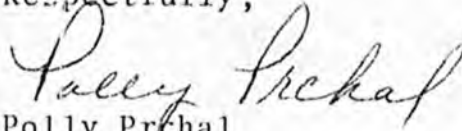
Al Adams  
Juneau

-2-

February 15, 1989

No threat is seen to the Coastal Management Review process. The local review through the Alaska Coastal Management Act can still take place; but a lead agency could mitigate conflicting comments from agencies. These are the views of the mining economy of Nome; but, mining is the stable industry and the major source of private employment on the Seward Peninsula. Therefore, the Nome Planning Commission recommends support of S.B. 55.

Respectfully,



Polly Prchal  
City Manager

PP/dra

**S B**

**66**

RECEIVED

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SB 66  
PUBLISH DATE: OFFICE OF

FISCAL NOTE

SENATOR RICK HALFORD

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: "An Act relating to immunity for  
treatment of intoxicated persons..." BRU: Law Enforcement  
Sponsor: Senator Halford Component: AST, FWP, CAP, VPSO,  
Requestor: Senator Halford FP

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

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

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

SB 66 would prevent lawsuits against the State, Department, and its officers, employees, and agents for discretionary decisions regarding incapacitated (intoxicated) persons. Passage of this bill may eliminate future liability, and would have no fiscal impact on the Department's present budget.

Prepared by: Captain C. Roger McCoy, Special Assistant Phone: 465-4322  
Division: Office of the Commissioner Date: 1/23/89

Approved by Commissioner: Arthur English Date: 1-23-89  
Agency: Department of Public Safety

- (1) emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital;
- (2) inpatient treatment;
- (3) intermediate treatment; and
- (4) outpatient and follow-up treatment.

(c) The office shall insure that adequate and appropriate treatment is provided to alcoholics and intoxicated persons admitted under AS 47.37.160 — 47.37.190 within the limits of available state and federal funds.

(d) The office shall maintain, supervise and control all facilities operated by it subject to the regulations of the department. The administrator of each facility shall make an annual report of its activities to the coordinator in the form and manner the coordinator specifies.

(e) If possible, the office shall coordinate the activities of the program with all appropriate public and private resources.

(f) The coordinator shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(g) The office may contract for the use of any facility as an approved public treatment facility if the coordinator, subject to the regulations of the department, considers this an effective and economical course to follow. Contracting under this subsection is governed by AS 36.30 (State Procurement Code). (§ 1 ch 207 SLA 1972; am § 5 ch 150 SLA 1980; am § 62 ch 106 SLA 1986)

**Effect of amendments.** — The 1986 amendment, effective January 1, 1988, added the last sentence in subsection (g).

**Sec. 47.37.170. Treatment and services for intoxicated persons and persons incapacitated by alcohol.** (a) An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help or a person who appears to be intoxicated in or upon a licensed premise where intoxicating liquors are sold or consumed who refuses to leave upon being requested to leave by the owner, an employee or a peace officer may be taken into protective custody and assisted by a peace officer or a member of the emergency service patrol to the person's home, an approved public treatment facility, an approved private treatment facility, or another appropriate health facility. If all of the preceding facilities, including the person's home, are determined to be unavailable, a person taken into protective custody and assisted under this subsection may be taken to a state or municipal detention facility in the area.

(b) A person who appears to be incapacitated by alcohol in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to

an approved public treatment facility, an approved private treatment facility, or another appropriate health facility or service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by alcohol in a public place shall be taken to a state or municipal detention facility in the area, if that appears necessary for the protection of the person's health or safety.

(c) A person who voluntarily appears or is brought to an approved public treatment facility shall be examined by a licensed physician as soon as possible. After the examination, the person may be admitted as a patient or referred to another health facility. The approved public treatment facility which refers a person shall arrange for transportation.

(d) A person who, after medical examination, is found to be incapacitated by alcohol at the time of admission or to have become incapacitated at any time after admission, may not be detained at a facility after the person is no longer incapacitated by alcohol. A person may not be detained at a facility if the person remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless the person is committed under AS 47.37.180. A person may consent to remain in the facility as long as the physician in charge considers it appropriate.

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to the person's home, if any. If the person has no home, the approved public treatment facility shall assist the person in obtaining shelter.

(f) If a patient is admitted to an approved public treatment facility, his family or next of kin shall be promptly notified. If an adult patient who is not incapacitated requests that there be no notification of next of kin, his request shall be granted.

(g) Peace officers or members of the emergency service patrol who comply with this section are acting in the course of their official duty and are not criminally or civilly liable for it.

(h) If the physician in charge of the approved public treatment facility determines it is for the patient's benefit, an attempt shall be made to encourage the patient to submit to further diagnosis and appropriate voluntary treatment.

(i) A person taken to a detention facility under (a) or (b) of this section may be detained only (1) until a treatment facility or emergency medical service is made available, or (2) until the person is no longer intoxicated or incapacitated by alcohol, or (3) for a maximum period of 12 hours, whichever occurs first. A detaining officer or a detention facility official may release a person who is detained under (a) or (b) of this section at any time to the custody of a responsible adult. A peace officer or a member of the emergency service patrol, in

detaining a person under (a) or (b) of this section and in taking the person to a treatment facility, an emergency medical service or a detention facility, is taking the person into protective custody and the officer or patrol member shall make reasonable efforts to provide for and protect the health and safety of the detainee. In taking a person into protective custody under (a) and (b) of this section, a detaining officer, a member of the emergency service patrol or a detention facility official may take reasonable steps for self-protection, including a full protective search of the person of a detainee. Protective custody under (a) and (b) of this section does not constitute an arrest and no entry or other record may be made to indicate that the person detained has been arrested or charged with a crime, except that a confidential record may be made which is necessary for the administrative purposes of the facility to which the person has been taken or which is necessary for statistical purposes where the person's name may not be disclosed.

(j) For purposes of (b) of this section, "incapacitated by alcohol" means a person who, as the result of consumption of alcohol, is rendered unconscious or has judgment or physical mobility so impaired that the person cannot readily recognize or escape conditions of apparent or imminent danger to personal health or safety. The definition in AS 47.37.270(9) applies to other portions of this chapter. (§ 1 ch 207 SLA 1972; am §§ 1-4 ch 101 SLA 1976)

Editor's notes. — This section is set out above to correct a minor error in subsection (j) in the main pamphlet.

Sec. 47.37.270. Definitions. In this chapter

(1) "alcoholic" means a person who habitually lacks self-control in using alcoholic beverages, or uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered, or the person's social or economic function is substantially disrupted;

(2) "approved private treatment facility" or "private facility" means a private agency meeting the standards prescribed in AS 47.37.140(a) and approved under AS 47.37.140(c);

(3) "approved public treatment facility" or "public facility" means a treatment agency operating under the direction and control of the office or providing treatment under AS 47.37.010 — 47.37.270 through a contract with the office under AS 47.37.130(g) or through a grant awarded under AS 47.30.475, and meeting the standards prescribed in AS 47.37.140(a) and approved under AS 47.37.140(c);

(4) "board" means the Review Board on Alcoholism established under AS 47.37.060;

(5) "commissioner" means the commissioner of health and social services;

## **Resolution of the Alaska Municipal League**

### **Resolution No. 89-9**

#### **A RESOLUTION URGING THE LEGISLATURE TO PROVIDE FUNDING TO MUNICIPALITIES TO OFFSET THE COST OF COMPLYING WITH THE PROVISIONS OF AS 47.37**

WHEREAS, alcohol abuse is purported to be the number-one health problem in the State of Alaska, and

WHEREAS, the Alaska Supreme Court has held that municipalities have an affirmative duty to take persons incapacitated by alcohol in a public place into protective custody and transport them to an appropriate treatment facility, if one is available, and

WHEREAS, if a treatment facility is not available, the municipality must detain incapacitated persons in a state or municipal detention facility, and

WHEREAS, failure to provide protective custody to persons incapacitated by alcohol may result in liability for damages to the intoxicated person when injury results, and

WHEREAS, this increased responsibility and liability have been imposed on municipalities at a time when there are decreasing state revenues to fund municipal jail contracts, and

WHEREAS, treatment facilities and detention facilities have no real means to enforce the collection of fees from those who are taken into protective custody, and

WHEREAS, those taken into protective custody often do not have the resources to pay for medical treatment or detention, and

WHEREAS, local governments have been forced to assume the financial burden of providing medical examination, treatment, and protective custody detention as required by AS 47.37, and

WHEREAS, once an incapacitated person is taken into protective custody, the treatment facility or detention facility assumes further liability for the safety and welfare of that person while detained, and

WHEREAS, many standard municipal insurance policies specifically exclude "custodial care" from coverage, and

WHEREAS, a special alcohol tax would seem to make sense in that it would place the cost of the problem on the source of the problem, and

WHEREAS, AS 4.21.010 specifically prohibits municipalities from imposing such a tax, and

WHEREAS, barring this avenue for funding a State-mandated responsibility and liability, municipalities must look to the State for relief from the burden imposed on municipalities by AS 47.37 and the State Supreme Court;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that:

1. The Alaska State Legislature is hereby urged to provide direct funding to municipalities to offset the cost of complying with the provisions of AS 47.37; and
2. The Alaska State Legislature is further urged to amend AS 4.21.010 to allow local governments to impose a special tax on alcohol to fund mandated programs and procedures to deal with alcohol abuse within local communities and to fund substance abuse education.

## Resolution of the Alaska Municipal League

### Resolution No. 89-7

#### A RESOLUTION URGING THE REVERSAL OF THE IMPLIED LIABILITY OF MUNICIPALITIES REGARDING TAKING INCAPACITATED PERSONS INTO PROTECTIVE CUSTODY

WHEREAS, the purpose of AS 47.37.170(b) is to provide for a compassionate local response to one aspect of the alcohol/drug crisis in Alaska communities to help those in need, and

WHEREAS, the Alaska Supreme Court decision in *Busby v. Municipality of Anchorage* incorrectly interpreted the legislative intent behind AS 47.37.170(b) and judicially created an affirmative duty to take incapacitated persons into custody that was never intended to be imposed upon local communities, and

WHEREAS, the effect of this decision has been that municipalities with police powers are now forced to pick up all persons who appear to be incapacitated and put them in a treatment facility, where possible, or in state or municipal correctional facilities, and

WHEREAS, this obligation has resulted in a great deal of expense to municipalities or the State and an increased workload for peace officers, leaving them with inadequate time for other police duties, including investigation of violations of alcohol control laws, and

WHEREAS, this decision to burden local governments with an obligation that they are neither equipped nor fairly required to meet was arrived at judicially, without any communication with or consideration for the communities involved and the impact such an obligation would have;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the 16th Alaska Legislature to enact legislation which clarifies the municipalities' Good Samaritan role in assisting incapacitated individuals by adding to AS 47.37.170(b) the simple declaration:

"This section shall not impose any affirmative duty upon local governments or their agents to take persons incapacitated by alcohol into protective custody."

*Adopted at Annual Business Meeting on November 18, 1988 in Fairbanks, Alaska*

**Resolution of the Alaska Municipal League**

**Resolution No. 89-8**

**A RESOLUTION SEEKING ALTERATIONS OF STATE STATUTES  
TO ALLOW MORE LOCAL AUTONOMY IN DEALING WITH  
THE PUBLIC INEBRIATE PROBLEM**

WHEREAS, Alaska Statute 47.37.170(b) requires that a person appearing to be incapacitated by alcohol in a public place be taken into protective custody by a peace officer, and

WHEREAS, little latitude is available to local governments under this statute to deal with the problem, and

WHEREAS, AS 47 places local jurisdictions in undue risk of litigation, and

WHEREAS, compliance with AS 47 jeopardizes municipal financial ability to provide health and related social services to persons experiencing alcohol related problems;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Legislature to alter AS 47.37.170 to permit greater local autonomy in dealing with public inebriates.

## Removal of Municipal Liability Imposed by Busby Decision

The Alaska Municipal League urges the Legislature to pass legislation reversing the implied liability of municipalities caused by the Busby decision regarding taking incapacitated persons into protective custody.

### BACKGROUND

The decision of the Alaska Supreme Court in Busby v. Municipality of Anchorage, which interpreted the intent of the Alaska Legislature in enacting AS 47.37.170(b), judicially created a duty to take incapacitated persons into custody that the Legislature did not intend to impose upon local communities.

The purpose of AS 47.37.170(b) is to provide for a compassionate local response to one aspect of the alcohol/drug crisis in local communities. However, to change that ability of local communities to help those in need into an affirmative duty to do so imposes on local communities obligations they are neither equipped nor fairly required to meet. The League supports a wide variety of measures to deal with the complicated issues of alcohol/drug abuse in Alaska. Nonetheless, the creation by the courts of a governmental obligation to take incapacitated persons into custody that took place without the discussion and study of the impacts of that obligation that would occur during the normal legislative process was not a good or fair way to address the problem.

The effect of this court decision has been that municipalities with police powers are now forced to pick up all persons who appear to be incapacitated and put them in a treatment facility, where possible, or in state or municipal correctional facility. The result has been great expense to the municipality or the State and an increased workload for peace officers, which comes at the expense of other duties, including investigation of violations of alcohol control laws.

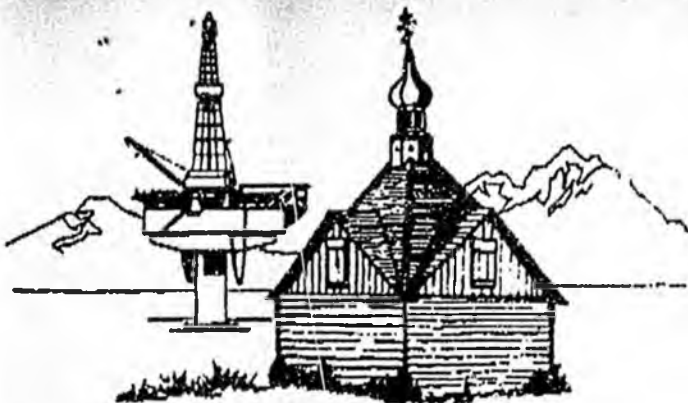
Therefore, the League supports amending AS 47.37.170(b) by the addition of a simple declaration as follows:

"This section shall not impose any affirmative duty upon municipalities or their agents to take persons incapacitated by alcohol into protective custody."

This is the narrowest possible legislative response to the Supreme Court's misinterpretation of legislative intent in the Busby case. Other programs and measures are needed to deal with the complex and difficult issues

raised by alcohol/drug abuse in Alaska and it is appropriate for the Legislature to deal with those issues without "judicial legislation" by our courts.

1989 Municipal Platform



1791-1991

**CITY OF KENAI**  
*"Oil Capital of Alaska"*

210 FIDALGO KENAI, ALASKA 99611

TELEPHONE 283-7535

FAX 907-283-3014

January 23, 1989

Senator Rick Malford  
Alaska State Legislation  
Pouch V  
Juneau, Alaska 99811

Re: Senate Bill 66

Your efforts for corrective legislation relative to the oppressive financial burden the *Busby* decision will have on municipalities and *Busby's* detrimental psychological effect on our cadre of dedicated police officers is most appreciated.

As a City Attorney, who is also a former Public Defender and criminal defense attorney, as well as a member of AML's Legislative Committee, I have attempted to study this legislation objectively and have concluded that corrective legislation such as SB 66 is not only appropriate, but much needed.

To suggest that the decision whether or not to take an incapacitated person into custody is one to which civil liability should attached, is both ludicrous and demeaning to the police officer involved, as well as a slap in the face of every professional police department in the State of Alaska. Furthermore, such civil liability could well result in redlining of certain areas insofar as police activity is concerned so that the problem is not encountered, the liability alleviated, and resultant deaths and injuries, as a result of custodial arrests not taking place, multiplied. It can be anticipated that in the present economic climate such "unavailability" of police officers would be couched ostensibly in terms of "fiscal restraints," when in fact, the real reason would be fear of liability with its resultant financial burden for the governmental agency involved.

Senator Rick Halford  
January 23, 1989  
Page 2

Aside from the decision of whether or not to act, there seems to be concern on the part of some, that in taking affirmative action, it may be taken in a grossly negligent or malicious manner. Inclusion of a remedy for gross misconduct or malicious misconduct, is intuitive without piggybacking specific language allowing a cause of action in legislation correcting the *Busby* decision's burden relevant to custodial arrests. In other words, to give a specific statutory cause of action is to, in actuality, give nothing and to take nothing away insofar as the rights of an aggrieved party are concerned. However, it seems to be in the minds of some, a problem of sufficient magnitude to require inclusion of such language into a statute so as to perhaps warn all police officers and remind them of a liability that already exists. If such language is perceived by police agencies as creating or elevating a right of action, it is assumed that the response would be defensive in nature, which may result in an attempt to have less contact with the very subjects they are presently attempting to assist.

It seems we have come full circle. There was a time when public intoxication was a crime subject to arrest. Then it was found to be a disease, making it a status crime for which one could not be arrested. Now, police officers must take people into protective custody due to disease or risk civil suit.

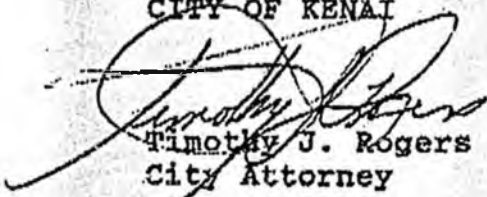
For a variety of reasons, professionals are being put at odds with the very people they want to serve. We read that malpractice actions are driving doctors from practice and increasing medical costs. Lawyers now practice defensively and view their clients as adversaries. Let's not drive another wedge between a group whose duty it is to serve and those in need of their assistance.

Please find enclosed fax materials received from the Alaska Peace Officers Association in support of corrective legislation such as SB 66 which we hope you will find informative.

Senator Rick Halford  
January 23, 1989  
Page 3

Again, we thank you for your assistance in the forming of SB 66 as a reasonable and rational solution to a serious and expensive problem for all concerned.

CITY OF KENAI



Timothy J. Rogers  
City Attorney

TJR/clf

cc: Senator Mike Szymanski  
Senator Al Adams  
Senator Paul E. Fischer  
Representative C.E. Swackhammer  
Representative Mike Navarre  
Scott Burgess, AML  
Mike Daugherty, AACP  
Duane Udland, AACP  
John McKibben, AACP  
George Novaky, AACP  
Glen Godfrey, AACP  
Richard Cummings, AACP

Shirley Warner, APOA  
Dale Florian, APOA  
Steve Kalwara, APOA  
John Shover, APOA, FBINAA  
Greg Russell, APOA  
Greg Hansen, APOA  
Terry Quarton, APOA  
Kevin O'Leary, FBINAA  
Rick Ross, FBINAA  
Turk Mayfield, FBINAA  
Dan Anslinger, AACP,  
FBINAA

## INDEMNIFICATION FOR GOVERNMENT EMPLOYEES

We have made indemnification for Public Employees our number one priority. It has been given our highest priority because we see no other single issue that has greater potential impact for both law enforcement and other government workers as well.

It has long been accepted that government must be held responsible for what it does. When the government takes, or fails to take action, courts have held that the government is liable for its actions, and injured parties have, through law suits or claims, received compensation for the wrongs done to them. Generally, when a law suit is filed, it is filed against the government and the suit names employees of the government as parties to the action. Traditionally, employees have not been held personally liable for actions they have taken at the behest of their employer, unless those employees were clearly working outside the scope of their authority.

Recent court rulings have led to the current trend that holds public employees personally responsible for actions that they have taken in their jobs. This trend now places public employees in a position where their own personal assets and savings are at risk whenever law suits are filed, even though that employee was working within the scope of their employment without any intent of causing harm.

This places all public employees at risk from the highest level policy makers to the lowest level of workers where those policies are carried out. The social workers, the road maintenance supervisor, the police officer, the medic, the fireman, and the department manager, are all vulnerable. We in law enforcement believe this is an undue burden upon public employees and it carries great potential for the workings of government to become bogged down, because employees fear that decisions they make in good faith may result in the loss of their personal assets.

When employees are doing the work of the government within the scope of their authority and without malice, they should not be held personally liable when they are named as parties to law suits. Legislation should be passed that indemnifies public employees and frees them from the burden of working under the constant threat that the good faith judgements they make can result in the loss of their homes, cars and savings or other assets.

## REMOVAL OF MUNICIPAL LIABILITY IMPOSED BY BUSEY DECISION

The Busby decision arose from a case in Anchorage involving an inebriate who was contacted, but not taken into custody, by a police officer and who was later struck by a motor vehicle. Busby sued the municipality for not having taken him into custody. The case reached the Supreme Court, which found in Busby's favor.

The Court interpreted the intent of the legislature in enacting the Uniform Alcoholism and Intoxication Treatment Act, AS 47.37.170 (b), to create a duty for municipalities to take incapacitated persons into custody. The purpose of the statute is for municipalities to help those in need. The Court apparently interpreted this as a responsibility which imposes upon municipalities substantial obligations, including placing such persons in a treatment facility or in a state or local correctional facility.

Some communities, especially those in outlying areas with very small police departments or remote state trooper posts have no treatment or correctional facilities. They only have a holding facility, or local jail, with no professional person to provide suitable treatment.

We encourage and support legislation which would remove the liability from municipalities and their officers for acting in good faith and making a decision not to take an inebriated person into custody. With this kind of liability attached, the impact upon the municipalities and the ability for officers to make good common sense decisions about a person's liberty is great.

TRIAL COURTS FOR THE STATE OF ALASKA.

THIRD JUDICIAL DISTRICT

RECEIVED  
Office of Municipal Clerk

OCT 5, 1981

Pouch 6-650  
Anchorage, Alaska 99502

Plaintiff(s)

VS.

Defendant(s)

Case No. 3AN- \_\_\_\_\_ CIV

SUMMONS

TO: NEWT SMITH, Municipal Clerk of the  
MUNICIPALITY OF ANCHORAGE, Defendant.

YOU ARE HEREBY SUMMONED and required to serve upon the court at  
303 K Street, Anchorage, Alaska and copy upon MONROE T. R. [unclear]  
\_\_\_\_\_, Plaintiff's attorney, whose address is:  
700 'E' Street, Suite 4, Anchorage, Alaska 99501

an answer to the complaint which is herewith served upon you  
within 20\* days after the service of this summons upon you,  
exclusive of the day of service. If you fail to do so, judgment  
by default may be taken against you for the relief demanded in  
the complaint.

- This case has been assigned to Superior Court Judge \_\_\_\_\_
- This is a District Court case and will be assigned to an available judge.

Clerk of the Trial Courts

(COURT SEAL)

By: \_\_\_\_\_  
Deputy Clerk

DATED: \_\_\_\_\_

\*If the State or an office or agency thereof is a defendant, the  
time to be inserted as to it is 40 days.

TRIAL COURTS FOR THE STATE OF ALASKA.  
THIRD JUDICIAL DISTRICT

RECEIVED  
Office of Municipal Clerk  
OCT 5 1981  
Pouch 6-650  
Anchorage, Alaska 99502

TO: BUSBY,

Plaintiff(s)

vs.

MUNICIPALITY OF ANCHORAGE, MUNICIPALITY OF ANCHORAGE POLICE DEPARTMENT and OFFICER FOSTER, jointly and severally,

Defendant(s)

RECEIVED  
OCT 13 1981  
Risk Management

Case No. 3AN- 81 - 6826 CIV

SUMMONS

TO: RUBY SMITH, Municipal Clerk of the MUNICIPALITY OF ANCHORAGE, Defendant.

YOU ARE HEREBY SUMMONED and required to serve upon the court at 303 K Street, Anchorage, Alaska and copy upon LEONARD T. KELLEY, Plaintiff's attorney, whose address is: 700 'H' Street, Suite 4, Anchorage, Alaska 99501

an answer to the complaint which is herewith served upon you within 20\* days after the service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the complaint.

- This case has been assigned to Superior Court Judge Dudchik
- This is a District Court case and will be assigned to an available judge.

Clerk of the Trial Courts

(COURT SEAL)

By: [Signature]  
Deputy Clerk

DATED: 10-2-81

\*If the State or an office or agency thereof is a defendant, the time to be inserted as to it is 40 days.

# 53-072

# **CORRECTION**

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



TRIAL COURTS FOR THE STATE OF ALASKA.  
THIRD JUDICIAL DISTRICT

TOM BUSBY,

Plaintiff(s)

vs.

MUNICIPALITY OF ANCHORAGE, MUNICIPALITY OF ANCHORAGE POLICE DEPARTMENT and OFFICER FOSTER, jointly and severally,

Defendant(s)

RECEIVED  
Office of Municipal Clerk

OCT 5 1981

Pouch 6450  
Anchorage, Alaska 99502

RECEIVED

OCT 13 1981

Risk Management

Case No. 3AN-81 - 6826 CIV

SUMMONS

TO: RUBY SMITH, Municipal Clerk of the MUNICIPALITY OF ANCHORAGE, Defendant.

YOU ARE HEREBY SUMMONED and required to serve upon the court at 303 K Street, Anchorage, Alaska and copy upon LEONARD T. KELLEY, Plaintiff's attorney, whose address is: 700 'H' Street, Suite 4, Anchorage, Alaska 99501,

an answer to the complaint which is herewith served upon you within 20\* days after the service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the complaint.

- This case has been assigned to Superior Court Judge Shadash.
- This is a District Court case and will be assigned to an available judge.

Clerk of the Trial Courts

(COURT SEAL)

By: [Signature]

Deputy Clerk

DATED: 10-2-81

\*If the State or an office or agency thereof is a defendant, the time to be inserted as to it is 40 days.

# 533072

TRIAL COURTS FOR THE STATE OF ALASKA.  
THIRD JUDICIAL DISTRICT

RECEIVED  
Office of Municipal Clerk  
OCT 5 1981  
Pouch 6650  
Anchorage, Alaska 99502

TOM BUSEY,

Plaintiff(s)

vs.

MUNICIPALITY OF ANCHORAGE, MUNICIPALITY OF ANCHORAGE POLICE DEPARTMENT and OFFICER FOSTER, jointly and severally,

Defendant(s)

RECEIVED  
OCT 13 1981  
Risk Management

Case No. 3AN- 81 - 6826 CIV

SUMMONS

TO: RUBY SMITH, Municipal Clerk of the MUNICIPALITY OF ANCHORAGE, Defendant.

YOU ARE HEREBY SUMMONED and required to serve upon the court at 303 K Street, Anchorage, Alaska and copy upon LEONARD T. KELLEY, Plaintiff's attorney, whose address is: 700 'H' Street, Suite 4, Anchorage, Alaska 99501

an answer to the complaint which is herewith served upon you within 20\* days after the service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the complaint.

- This case has been assigned to Superior Court Judge [Signature]
- This is a District Court case and will be assigned to an available judge.

Clerk of the Trial Courts

(COURT SEAL)

By: [Signature]  
Deputy Clerk

DATED: 10-2-81

\*If the State or an office or agency thereof is a defendant, the time to be inserted as to it is 40 days.

RECEIVED  
Office of Municipal Clerk  
OCT 5 1981  
Foster, Alaska 99502  
Anchorage, Alaska 99502

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

1 TOM BUSBY, )  
2 )  
3 Plaintiff, )  
4 vs. )  
5 MUNICIPALITY OF ANCHORAGE, MUNI- )  
6 CIPALITY OF ANCHORAGE POLICE DE- )  
7 PARTMENT and OFFICER MARY FOSTER, )  
8 jointly and severally, )  
9 Defendants. )  
10 \_\_\_\_\_ )  
11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
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28 )  
29 )  
30 )  
31 )  
32 )

Case No. 3AN-81-6828

COMPLAINT

COMES NOW the plaintiff, TOM BUSBY, by and through his attorney, Leonard T. Kelley, and for his cause of action complains and alleges as follows:

I

That plaintiff is a resident and inhabitant of the State of Alaska, Third Judicial District, and is fully qualified to bring and maintain this action.

II

That on or about May 1, 1980, plaintiff, while in an extremely intoxicated state, was struck and injured by a motor vehicle operated by Theodore R. John, Jr.

III

That plaintiff was struck on East 5th Avenue, a public roadway, within the Municipality, and upon which defendants were authorized to enforce both the laws of the Municipality and the State of Alaska.

IV

That immediately prior to the incident alleged in Paragraphs II and III above, Police Officer FOSTER, of the MUNICIPALITY OF ANCHORAGE POLICE DEPARTMENT, made contact with said plaintiff and observed that he was extremely intoxicated and walking in the roadway.

LEONARD T. KELLEY  
Attorney at Law  
703 H St., Suite 4  
Anchorage, AK, 99501  
Telephone 276-6165

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

TOM EUSBY,

Plaintiff,

vs.

MUNICIPALITY OF ANCHORAGE, MUNI-  
CIPALITY OF ANCHORAGE POLICE DE-  
PARTMENT and OFFICER MARY  
FOSTER, jointly and severally,

Defendants.

Case No. 3AN-81-6828

DEMAND FOR JURY TRIAL

COMES NOW the plaintiff, TOM EUSBY, by and through his at-  
torney of record, Leonard T. Kelley, and hereby demands trial  
by jury in this action.

It is estimated that \_\_\_ day(s) will be required for the  
trial of this action.

DATED at Anchorage, Alaska this \_\_\_ day of September, 1981.

\_\_\_\_\_  
Leonard T. Kelley  
Attorney for Plaintiff

LEONARD T. KELLEY  
Attorney-at-Law  
700 M St., Suite 4  
Anchorage, Alaska 99501  
Telephone 276-8165

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That defendant, POLICE OFFICER FOSTER as a police officer for the MUNICIPALITY OF ANCHORAGE, had an affirmative duty to aid and otherwise protect plaintiff when it became apparent to her that plaintiff was walking in the roadway in an intoxicated condition.

VI

That the following acts of negligence and/or reckless disregard for plaintiff's well being, resulted in harm befalling plaintiff, to wit:

- 1) Failure to place plaintiff in protective custody;
- 2) Failure to place plaintiff in a detoxification unit;
- 3) Failure to remove plaintiff from the roadway;
- 4) Releasing plaintiff from temporary detention;
- 5) Failure to recommend or implement a method of improving traffic conditions by removing intoxicated persons from the roadway;
- 6) Failure to enforce the Municipal and State laws;
- and
- 7) Failure to provide treatment.

That each of the aforementioned acts of negligence constitutes a proximate cause of the injuries to plaintiff BUSBY, and that damages resulting therefrom have prevented plaintiff from maintaining his employment, and participating in social functions, have caused and will continue to cause plaintiff great pain of body and mind, and have subjected and will subject plaintiff to substantial medical and hospital expenses.

WHEREFORE, plaintiff prays for judgment against defendants, jointly and severally for:

- 1. Compensatory, consequential and punitive damages in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00).
- 2. Interest, costs and attorney's fees.
- 3. Such other relief as the Court deems just and equitable.

EDWARD T. KELLEY  
Attorney-at-Law  
702 N St., Suite 4  
Anchorage, AK 99501  
Telephone 276-8165

able.

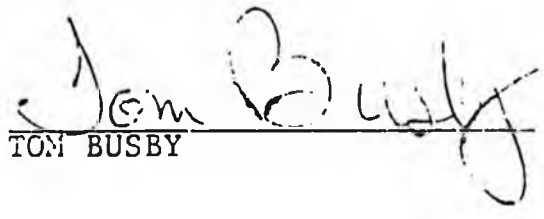
DATED at Anchorage, Alaska this \_\_\_\_ day of September, 1981.

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\_\_\_\_\_  
Leonard T. Kelley  
Attorney for Plaintiff

I have read this Complaint,  
and verify the facts to be  
true and accurate.

  
\_\_\_\_\_  
TOM BUSBY

LEONARD T. KELLEY  
Attorney at Law  
700 H St., Suite 4  
Anchorage, AK. 99501  
Telephone 276-8165

MEMORANDUM

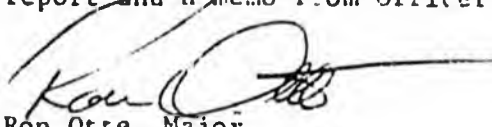
DATE: October 8, 1981  
TO: Julie Garfield  
FROM: Major Otte  
SUBJECT: Civil Suit - Case No. 3AN-81-6828

RECEIVED

OCT 12 1981

MUNICIPAL ATTORNEY

Enclosed please find copies of subpoenas sent to Chief Porter and Officer Mary Foster. I have included a copy of the police report and a memo from Officer Foster concerning her activities.



Ron Otte, Major  
Field Operations

RO:vka  
Enclosures

RECEIVED

OCT 12 1981

Risk Management

*TO  
Risk Management  
ASAP*



MEMORANDUM

DATE: October 11, 1981

TO: Major GLE

FROM: Patrol Officer M. Foster

SUBJECT:

On 5/1/80, during the evening hours Officer M. FOSTER enroute to a call in Mountain View area, was traveling eastbound on E. 5th Avenue and observed a white male subject that this Officer recognized to be TOM BUSBY. BUSBY was walking eastbound on E. 5th, near the roadway, approaching Big Timber Motel.

Officer stopped patrol vehicle and contacted BUSBY. Officer requested BUSBY'S Date of Birth. Officer ran a warrant check, negative warrant status. Officer warned BUSBY to stay away from the roadway of Officer would arrest BUSBY for Drunk in a Roadway. BUSBY advised he wasn't drunk. In Officers opinion BUSBY was intoxicated. Officer proceeded to call.

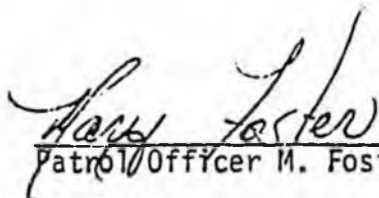
Officer kept view of BUSBY thru rear view mirror, and subject BUSBY continued walking eastbound on E. 5th avenue off roadway.

Officer M. FOSTER does not recall any additional details of contact.

Later, after Officer M. FOSTER cleared call, Officer responded to an accident with injury to ascertain if traffic units needed assistance. Officer M. FOSTER observed BUSBY, injured being placed in Medic Unit. Officer advised Officer BOOK of Officer's prior contact with BUSBY.

Officer M. FOSTER was requested to respond to Alaska Hospital and collect BUSBY'S clothing for evidence. Clothing was bagged, tagged and placed in Anchorage Police Department evidence.

No further action by Officer.

  
Patrol Officer M. Foster

MF/ddp



STATE OF ALASKA  
Uniform Police  
REPORT ON TRAFFIC COLLISION  
OFFICER'S COPY

POLICE CASE NUMBER: 80-25557  
BOROUGH CODE: GAMB  
CITY: ANCHORAGE  
CITY CODE: DETACH CODE:

ACCIDENT DATE: 5/16/80 DAY OF WEEK: THUR TIME: 10:35 AM ROAD TYPE: 110 OTHER: DAMAGE: 8 OTHER: 0

VEHICLE 1: LAST NAME DRIVER: JOHN THEODORE R. JR. FIRST NAME: MIDDLE INITIAL: Mailing Number and Street: 1586 EAGLE RIVER RD. Mailing City: EAGLE RIVER STATE: AK ZIP: 99577

VEHICLE 2: LAST NAME DRIVER: BUSBY TOM FIRST NAME: MIDDLE INITIAL: Mailing Number and Street: 611 W. 47th St. Mailing City: ANCHORAGE STATE: AK ZIP: 99503

RESIDENCE NUMBER AND STREET: RESIDENCE CITY: STATE: ZIP:

OPERATOR LICENSE NO: 0413334 STATE: AK SEX: M DATE OF BIRTH: 5/29/47

OPERATOR LICENSE NO: STATE: SEX: M DATE OF BIRTH: 7/2/40

NUMBER AND STREET: CITY: STATE: ZIP CODE:

PLATE NUMBER: AMG-353 STATE: AK VIN: A67L047605

VEHICLE DAMAGE: Vehicle 1 Damage: Vehicle 2 Damage:

INSURANCE: INS. CO: PHIL LIC + CBS

ACCIDENT DIAGRAM: CRYSLEER CTR. E. 5th AVE

VIOLATION SECTION: P-2, FTYROW TO TRAFFIC WHEN NOT IN X-LANE

ACCIDENT DESCRIPTION: V-1 E/B 5th IN E/B CURB LANE AT ANCHORAGE CRYSLEER. P-2 STEPPED OFF CURB DIRECTLY INTO PATH OF V-1. V-1 STRUCK P-2.

OPERATOR TICKET DESCRIPTION: P-2, FTYROW TO TRAFFIC WHEN NOT IN X-LANE

VIOLATION SECTION: 9 20 040 (A-C) A.D.

ACCIDENT DESCRIPTION: V-1 E/B 5th IN E/B CURB LANE AT ANCHORAGE CRYSLEER. P-2 STEPPED OFF CURB DIRECTLY INTO PATH OF V-1. V-1 STRUCK P-2.

INSURANCE: INS. CO: PHIL LIC + CBS

NAME OF STREET OR HIGHWAY: 5th AVE

OPERATOR TICKET DESCRIPTION: P-2, FTYROW TO TRAFFIC WHEN NOT IN X-LANE

VIOLATION SECTION: 9 20 040 (A-C) A.D.

ACCIDENT DESCRIPTION: V-1 E/B 5th IN E/B CURB LANE AT ANCHORAGE CRYSLEER. P-2 STEPPED OFF CURB DIRECTLY INTO PATH OF V-1. V-1 STRUCK P-2.

INSURANCE: INS. CO: PHIL LIC + CBS

NAME OF STREET OR HIGHWAY: 5th AVE

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INSURANCE: INS. CO: PHIL LIC + CBS

NAME OF STREET OR HIGHWAY: 5th AVE

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INSURANCE: INS. CO: PHIL LIC + CBS

NAME OF STREET OR HIGHWAY: 5th AVE

OPERATOR TICKET DESCRIPTION: P-2, FTYROW TO TRAFFIC WHEN NOT IN X-LANE

VIOLATION SECTION: 9 20 040 (A-C) A.D.

ACCIDENT DESCRIPTION: V-1 E/B 5th IN E/B CURB LANE AT ANCHORAGE CRYSLEER. P-2 STEPPED OFF CURB DIRECTLY INTO PATH OF V-1. V-1 STRUCK P-2.

INSURANCE: INS. CO: PHIL LIC + CBS

CONTINUATION REPORT

1. NATURE OF COMPLAINT OR OFFENSE  11-24	2. NAME OF COMPLAINANT OR VICTIM  TOM BUSBY	3. ADDRESS OF COMPLAINANT OR VICTIM  611 W. 47 <sup>TH</sup> #3-C	4. CASE NUMBER
5. ADDITIONAL DETAILS: ARRESTS; WITNESSES; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.			CRIM. CLASS

INFO:

ON 5/1/80 AT APPROX 2318 HRS REPORTING OFFICER

WAS DISPATCHED TO 5<sup>TH</sup> AVE AT ANCHORAGE CHRYSLER TO REPORT OF VEHICLE-PEDESTRIAN ACCIDENT

UPON ARRIVAL REPORTING OFFICER OBSERVED A SNOW & SOAK AS WELL AS A WALKET LYING IN THE STREET TO THE WEST OF WHERE PARAMEDICS WERE ADMINISTERING AID TO INJURED PEDESTRIAN. SHOE, SOCK & WALKET WERE IN E/B CARMS OF 5<sup>TH</sup>. ANOTHER SHOE WAS OBSERVED LYING IN W/B CARMS OF 5<sup>TH</sup> WELL TO EAST OF PEDESTRIAN (SEE DIAGRAM). PEDESTRIAN (BUSBY) WAS SUFFERING FROM BROKEN LEFT LEG AS WELL AND MULTIPLE CUTS & BRUISES OVER VAST MAJORITY OF BODY & HEAD.

V-1 WAS PARKED HEADED W/3 ON SOUTH SHOULDER OF 5<sup>TH</sup> APPROX 30 FT TO EAST OF SPOT THAT P-BUSBY WAS LYING HOOD & GRILL OF VEHICLE WERE DENTED SEVERELY AS WELL AS THE RIGHT SIDE OF WINDSHIELD BEING SHATTERED (SEE PHOTOS). D-1 JOHN GUNS STANDING BESIDE V-1 AND APPEARED TO BE BEHIND & POSSIBLY IN SLIGHT SHOCK. JOHN HAD SLIGHT OODL OF ALCOHOL & ABOUT PERSON BUT PERFORMED BALANCE TESTS SATISFACTORY AND DID NOT APPEAR TO BE UNDER INFLUENCE OF ALCOHOL.

REPORTING OFFICER WAS ADVISED BY OFFICER FOSTER #4:

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO.   DAY   YR.	8. SUPERVISOR APPROVING	BADGE NO.
	5   1   80		

9. REPORTING OFFICER D. Book	BADGE NO. 383	10. OTHER OFFICER ASSIGNED	BADGE NO.	DATE DICTATED	TIME
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CASE STATUS:  CLOSED  SUSPENDED  PENDING



## CONTINUATION REPORT

1. NATURE OF COMPLAINT OR OFFENSE  11-24	2. NAME OF COMPLAINANT OR VICTIM  TOM BUSBY	3. ADDRESS OF COMPLAINANT OR VICTIM  611 W 47 <sup>TH</sup> #3-C	4. CALL NUMBER CRIME CLASS
5. ADDITIONAL DETAILS: ARRESTS; WITNESSES; SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.			
<p>THAT P-BUSBY HAD BEEN SEEN IN THE AREA OF BILL TIMBER MOTEL JUST PRIOR TO ACCIDENT AND HAD BEEN EXTREMELY INTOXICATED.</p>			

## INTERVIEW WITH D-1 THEODORE R. JOHN JR:

D-1 JOHN ADVISED THAT HE HAD BEEN DRIVING E/B ON 5<sup>TH</sup>  
IN THE CURB LANE ACROSS FROM ANCHORAGE CHRYSLER WHEN  
SUDDENLY THE RIGHT SIDE OF HIS VEHICLE'S WINDSHIELD  
SHATTERED. JOHN THOUGHT THAT SOMEONE HAD THROWN A ROCK  
INTO WINDSHIELD AND TURNED AROUND NEAR POLAR AIRLINES  
AND DROVE BACK TOWARD THE SCENE ON THE SOUTH SHOULDER  
OF THE ROAD. JOHN STOPPED HIS VEHICLE AND GOT OUT TO SURVEY  
DAMAGE AND THEN NOTICED THE DAMAGE TO THE HOOD + GRILL  
AND REALIZED THAT HE MUST HAVE HIT SOMETHING JOHN NEVER  
SAW P-BUSBY UNTIL HE DROVE BACK TO SCENE. JOHN'S VEHICLE  
HAD NOT BEEN MOVED FROM TIME HE GOT OUT TO SURVEY DAMAGE  
TO TIME OFFICER ARRIVED.

~~PHOTOS:~~ PHOTOS:

FOLLOWING PHOTOS TAKEN BY REPORTING OFFICER  
FRAMES 1 THRU 4: JOHN'S VEHICLE + DAMAGE (AT SCENE)

" 5 - RESTING POINT OF BUSBY LOOKING NORTH ACROSS 5<sup>TH</sup>.

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO.   DAY   YR.   TIME 5   1   80   2315	8. SUPERVISOR APPROVING BADGE NO.
9. REPORTING OFFICER D Book 383	10. OTHER OFFICER ASSIGNED BADGE NO.	DATE DICTATED TIME
CASE STATUS: CLOSED <input checked="" type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>		DATE TYPED TIME BY

CONTINUATION REPORT

1. NATURE OF COMPLAINT OR OFFENSE <u>11-24</u>	2. NAME OF COMPLAINANT OR VICTIM <u>TOM BUSBY</u>	3. ADDRESS OF COMPLAINANT OR VICTIM <u>611 W. 47<sup>th</sup> #3-C</u>	4. CA NUMBER CRIM. CLASS
5. ADDITIONAL DETAILS: ARRESTS; WITNESSES; SUSPECTS, EVIDENCE, INTERVIEWS, INVESTIGATION, RECOVERED PROPERTY, EXHIBITS, ETC. <u>FRAME #6 - RESTING POINT OF <del>RED</del> BUSBY LOOKING NORTH ACROSS ST.</u> <u>" #7 - SOCK + SHOE NEAR P.O.I., LOOKING W/B IN E/B LANE'S SE</u> <u>" #8 - RESTING POINT OF OTHER SHOE, LOOKING E/B FROM RESTING POINT OF</u> <u>BUSBY</u>			

DISPOSITION:

REPORTING OFFICER WAS UNABLE TO INTERVIEW BUSBY DUE TO  
PREPARATION FOR SURGERY OFFICER NULAN #233 TOOK MEASUREMENTS  
FOR DIAGRAM WITH ASSISTANCE FROM OFFICER HEADCOTT #190

REPORTING OFFICER ENTERED ~~TO~~ BUSBY'S TIPS, SOCK & WALLET  
INTO EVIDENCE LOCKER #39 APD.

CITATION # ~~9~~ A153312 ISSUED TO BUSBY FOR FAILURE TO  
YIELD TO TRAFFIC WHEN CROSSING STREET AT OTHER THAN CROSS-WALK.  
COPIES LET IN BUSBY'S PERSONAL PROPERTY FOLDER AT ALASKA HOSPITAL  
E.R.

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO.   DAY   YR. <u>5</u>   <u>1</u>   <u>90</u>	TIME <u>2318</u>	8. SUPERVISOR APPROVING BADGE NO.
9. REPORTING OFFICER <u>D. Egan</u> BADGE NO. <u>383</u>	10. OTHER OFFICER ASSIGNED BADGE NO.	DATE DICTATED TIME	
CASE STATUS: CLOSED <input checked="" type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>			DATE TYPED TIME BY

## CONTINUATION REPORT

1. NATURE OF COMPLAINT OR OFFENSE  11-24	2. NAME OF COMPLAINANT OR VICTIM  TOIN BUSTBY	3. ADDRESS OF COMPLAINANT OR VICTIM  611 W. 47 <sup>TH</sup> #3C	CRIME CLASS	CASE NUMBER
5. ADDITIONAL DETAILS: ARRESTS; WITNESSES; SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY, EXHIBITS, ETC.				

## - DIAGRAM KEY -

A = "0" POINT - FIRE HYDRANT #51

B = VICTIM SOCK

C = VICTIM LEFT SHOE

D = VICTIM WALLET

E = VICTIM BODY

F = VICTIM RIGHT SHOE

## MEASUREMENTS

B = 68'-5" W. OF "A", 9'-8" N. OF S. CURB

C = 62'-1" W. OF "A" AGAINST S. CURB

D = 28'-0" W. OF "A", 8'-8" N. OF S. CURB

E = 61'-0" E. OF "A", HEAD AT CURB LINE

F = 143'-0" E. OF "A", 43'-8" N. OF S. CURB

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO. DAY YR. 5 1 80	TIME 2318	8. SUPERVISOR APPROVING BADGE NO.
9. REPORTING OFFICER D. Bouch BADGE NO. 383	10. OTHER OFFICER ASSIGNED BADGE NO.		DATE DICTATED TIME
CASE STATUS: CLOSED <input checked="" type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>			DATE TYPED TIME BY

ANCHORAGE  
CHRYSLER



ANCHORAGE  
CHRYSLER

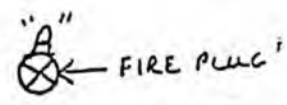
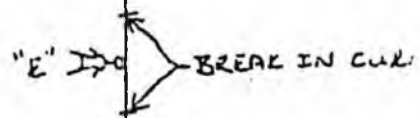
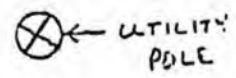
NOTE: DIAGRAM NOT  
DRAWN TO SCALE

J. Book #353  
5/1/50

CURB →

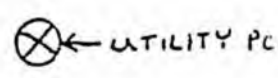
← 12'-1" \* 12'-5" \* 11'-9" \* 10'-3" \* 14'-7" ← CURB

"F"  
○  
E.5<sup>TH</sup> AVE.

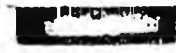


"D"  
○

"C"  
○



"B"  
○





CONTINUATION REPORT

30-25357

1. NATURE OF COMPLAINT OR OFFENSE <b>Accident w/Inv</b>	2. NAME OF COMPLAINANT OR VICTIM	3. ADDRESS OF COMPLAINANT OR VICTIM	4. CRIME CLASS 5. ADDITIONAL DETAILS; ARRESTS; WITNESSES; SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.
5. ADDITIONAL DETAILS; ARRESTS; WITNESSES; SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.			

WITNESS INFORMATION

MISCHA J AULLIVE, 701 KLEVIN ST.  
 #3, DL# 0278205, DOB 11-23-50, SSN, 574-22-1730  
 Hm. 237-5335, WK. 272-7561

INTERVIEW w/ AULLIVE

ON 5-2-80 at approximately 2300 hrs witness MISCHA J. AULLIVE came by APD to advise he was a witness to an accident on E 5th AVENUE involving a pedestrian. AULLIVE ADVISED he was east bound on 5th AVENUE shortly after 11:00 PM, in the inner most east bound lane; just behind the vehicle that struck the pedestrian. The small vehicle was eastbound in the curve lane at what appeared to be within the speed limits. The pedestrian was observed eastbound on 5th AVENUE, walking on the north side of the curb line, in the roadway. The pedestrian was walking in a drunken manner, and suddenly staggered into the small vehicle's PATH.

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT 5   2   80	TIME 11:30	8. SUPERVISOR APPROVING BADGE NO.
9. REPORTING OFFICER Roberts	BADGE NO. 315	10. OTHER OFFICER ASSIGNED BADGE NO.	DATE DICTATED TIME
CASE STATUS: <input type="checkbox"/> CLOSED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING			DATE TYPED TIME BY

CONTINUATION REPORT

82-25857

1. NATURE OF COMPLAINT OR OFFENSE <u>Accident w/IAI</u>	2. NAME OF COMPLAINANT OR VICTIM	3. ADDRESS OF COMPLAINANT OR VICTIM	4. CASE NUMBER CRIME CLASS
5. ADDITIONAL DETAILS: ARRESTS, WITNESSES, SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.			

INTERVIEW w/ ALLIVE (cont)  
ALLIVE stated there was no time for the small vehicle to take an evasive action. The pedestrian was hit, ROLLED over the hood and roof and was projected of the vehicle. ALLIVE stated in his opinion there was no apparent fault noticed by the driver and stated there was no way to avoid it."

DISPOSITION:

ATTACHED TO ORIGINAL REPORT

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO.   DAY   YEAR   TIME <u>5</u>   <u>2</u>   <u>80</u>   <u>11:09</u>	8. SUPERVISOR APPROVING BADGE NO
9. REPORTING OFFICER <u>Roberts</u>	BADGE NO. <u>315</u>	10. OTHER OFFICER ASSIGNED BADGE NO. DATE DICTATED TIME
CASE STATUS: CLOSED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>		DATE TYPED TIME BY



MUNICIPALITY OF ANCHORAGE  
 DEPARTMENT OF PUBLIC SAFETY - DIVISION OF POLICE SERVICES  
 625 "C" STREET ANCHORAGE, ALASKA

XXXXXXXXXXXXX REPORT  
 SUPPLEMENT

80-258

1. NATURE OF COMPLAINT OR OFFENSE	2. NAME OF COMPLAINANT OR VICTIM	3. ADDRESS OF COMPLAINANT OR VICTIM	CRIME CLASS
5. ADDITIONAL DETAILS: ARRESTS; WITNESSES; SUSPECTS; EVIDENCE; INTERVIEWS; INVESTIGATION; RECOVERED PROPERTY; EXHIBITS, ETC.			
PROPERTY DISPOSITION: On <u>9-23-80</u> , At approximately <u>1145</u> hours, the following property was released to the <u>owner/finder</u> , <u>TOM BUSBY</u> by, <u>MARVIN C MORRISSETT</u> .			

- 1, SHIRT
- 2, T-SHIRT
- 3, 1 SHEET, 1 YELLOW SHORT, GREEN CORD PANTS
- 4, GLASS & DEBRIS
- 5, SOCK. 7 KEYS

SIGNATURE: Tom Busby

ADDRESS: 2315 W. TUDOR AVENUE 248-3732

WITNESS: Marvin C Morrissett

D.O.B. 7-2-40 AKDL # 383984

6 FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO.   DAY   YR.   TIME	8. SUPERVISOR APPROVING BADGE NO.
9. REPORTING OFFICER BADGE NO.	10. OTHER OFFICER ASSIGNED BADGE NO.	DATE DICTATED TIME
CASE STATUS: CLOSED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>		DATE TYPED TIME BY

Provide complete identity of commodity as possible distinguishing marks to include sketches, initials, hidden marks or any other means of positively identifying the property. DO NOT WRITE in printed area of form.

X

ITEM NO	TYPE OF ARTICLE	BRAND NAME	APPROX DATE OF PURCHASE	MODEL YEAR	PRESENT CONDITION	COMP INPUT	ACIC	NCIC	DATE ENTERED	FILE NUMBER
1	SHOES				GOOD					
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
LEATHER SHOES - LEATHER						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				
2	SOCK									
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
MAN'S SOCK						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				
3	WALLET									
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
MAN'S LEATHER WALLET CONTAINING PERS. PAPERS TO TOM RUSBY						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				
DISTINGUISHING MARKS OR OTHER MEANS OF IDENTIFICATION						EVIDENCE ( ) FOUND ( ) SAFE KEEPING ( ) DATE STORED ( )				
						SUBMIT FOR EXAM DATE TO P.O. REG NUMBER RETURN DATE				
						This is to certify that I, the undersigned, received the property described in this section (left) and relieve the A.S.T. from responsibility for same.				
						SIG. OR P.O. REG. NO. X				





NON-PROSECUTABLE REPORT  
SUPPLEMENT

80-25857

1. NATURE OF COMPLAINT OR OFFENSE	2. NAME OF COMPLAINANT OR VICTIM	3. ADDRESS OF COMPLAINANT OR VICTIM
-----------------------------------	----------------------------------	-------------------------------------

4. ADDITIONAL DETAILS: ARRESTS, WITNESSES, SUSPECTS, EVIDENCE, INTERVIEWS, INVESTIGATION, RECOVERED PROPERTY, EXHIBITS, ETC.

PROPERTY DISPOSITION: On 9-8-80, At approximately 1330 hours, the following property was released to the owner/finder, Tom Busby by Cadet Koch.

one pair lace-up shoes  
one red & white sock  
one brown leather wallet w/ misc papers & I.D.

SIGNATURE: Tom Busby

ADDRESS: 2315 W Tudar

WITNESS: David Koch

D.O.B. 7/2/40 AKDL # 383984

6. FOLLOW UP REQUIRED (DATE)	7. DATE OF REPORT MO: <u>9</u> DAY: <u>8</u> YR: <u>80</u>	TIME: <u>1330</u>	8. SUPERVISOR APPROVING	BADGE NO.	
9. REPORTING OFFICER <u>Cadet Koch</u>	BADGE NO. <u>0539</u>	10. OTHER OFFICER ASSIGNED	BADGE NO.	DATE DICTATED	TIME
CASE STATUS: CLOSED <input type="checkbox"/> SUSPENDED <input type="checkbox"/> PENDING <input type="checkbox"/>			DATE TYPED	TIME	BY



EVIDENCE DISPOSITION

TO: XX Anchorage Police Department

DATE: September 11, 1980

- Alaska State Troopers
- Airport Security
- District Attorney's Office
- Municipal Prosecutor's Office
- Other: \_\_\_\_\_

Re: APD Report 80-25857  
Police Agency No. \_\_\_\_\_

TOM BUSBY  
Name of Defendant

1.  There is no physical evidence in this case, according to the prosecutor's records.
2.  This is your authority to dispose of the following evidence held by your agency. This case has reached final disposition.
3.  This is your authority to release to TOM BUSBY  
upon proper showing of identification, the following evidence held by your agency. 1 pair of pants, 1 t shirt, 1 tan shirt and contents.
4.  This is your authority to photograph (for purposes of identification in court) and release to \_\_\_\_\_  
upon proper showing of identification, the following evidence held by your agency.
5.  This is to notify you that the following listed items should be retained by you for future possible court proceedings.
6.  The items listed below have been forfeited by the court and thus should be disposed of according to departmental policies and rules.

Allen M. Bailey  
Name

Municipal Prosecutor  
Title

MOA  
Agency

NOTE: A copy of the appropriate ST-10 must be attached for all transmittals. List all property by item number from the ST-10.

80-25857

EVIDENCE DISPOSITION

TO: XX Anchorage Police Department

DATE: September 8, 1980

       Alaska State Troopers

       Airport Security

       District Attorney's Office

       Municipal Prosecutor's Office

       Other: \_\_\_\_\_

Re: Citation No. A153312  
APD REPORT NO. 80-25857  
Police Agency No.

TOM BUSBY

Name of Defendant

1.        There is no physical evidence in this case, according to the prosecutor's records.
2.        This is your authority to dispose of the following evidence held by your agency. This case has reached final disposition.
3. XX This is your authority to release to TOM BUSBY  
upon proper showing of identification, the following evidence held by your agency.  
1 pr. brown lace up shoe            1 brown leather wallet w/contents  
1 red and white sock
4.        This is your authority to photograph (for purposes of identification in court) and release to \_\_\_\_\_  
upon proper showing of identification, the following evidence held by your agency.
5.        This is to notify you that the following listed items should be retained by you for future possible court proceedings.
6.        The items listed below have been forfeited by the court and thus should be disposed of according to departmental policies and rules.

James F Wolf  
Name

Municipal Prosecutor

Title

Municipal Prosecutor's Office

Agency

NOTE: A copy of the appropriate ST-10 must be attached for all transmittals. List all property by item number from the ST-10.

**S B**

**74**



# SENATOR FRED F. ZHAROFF

## ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 480-6259

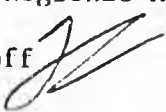
DURING SESSION:

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 • PIIILOF ISLANDS • SIUMAGIN ISLANDS

TO: Senator Al Adams  
Chairman  
Senate Community and Regional Affairs Committee

FROM: Senator Fred F. Zharoff 

DATE: March 7, 1989

RE: Senate Bill 74 - "An Act amending and extending the fisheries business tax credit; relating to fisheries business tax refunds to municipalities; and providing for an effective date."

SB 74 extends the existing Fisheries Business Tax Credit Program an additional two years.

The tax credit allows seafood processors in Alaska to apply for a credit of up to 50 percent of their state fish taxes for improvements made to their shorebased plants that "increase product diversity, or production efficiency and capacity, or improve product quality". Under present law, the credit may only be taken for three consecutive years.

The program has been a tremendous success in encouraging processors to upgrade their shorebased plants. The timing has been crucial. The groundfish resources of the U.S. 200 mile limit recently passed from the economic control of the foreign fishing fleets to the domestic processing industry. Many shorebased processors have taken advantage of the credit to renovate their plants for groundfish processing.

Because many processors are still in the middle of their capital expenditure programs and because of stiff competition from offshore processors, I would like to see the processors have the benefit of a five year tax credit. The funds the state returns to the industry -- \$6.7 million in fiscal year 1988 -- are a long-term investment. The upgraded processing plants will be able to provide jobs and produce income for the state for decades to come.

The following backup information is attached:

1. Sectional analysis.
2. Letter from Commissioner Hugh Malone, Dept. of Revenue, reporting on the past year's tax credit program, dated Jan. 20, 1989.
3. Resolution of support from the Southwest Alaska Municipal Conference.

4. Letter from Mr. Larry Cambronero of Chugach Fisheries, Inc., dated Jan. 10, 1989.
5. Legislative priority list from the City of King Cove (see page 3), dated Jan. 10, 1989.
6. Research report from the Senate Advisory Council.
7. Copy of the 1986 tax credit law.

During the interim, I mailed a four page survey to all the shorebased processors in Alaska, requesting information on how they used the tax credit. I am in the process of compiling the results of that survey, and will provide them to the committee as soon as they are available.



# SENATOR FRED F. ZHAROFF

## ALASKA STATE LEGISLATURE

P.O. BOX 406, KODIAK, ALASKA 99616 (907) 486-6269

DURING SESSION

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 485-3474

### DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILLIAMNA • PIIILOF ISLANDS • SHUMAGIN ISLANDS

### SECTIONAL ANALYSIS

Senate Bill 74 - "An Act amending and extending the fisheries business tax credit; relating to fisheries business tax refunds to municipalities; and providing for an effective date."

#### SECTION 1

Amends 43.75.032(a) to allow a fisheries business to claim a fisheries tax credit for a maximum of five consecutive years, rather than the three consecutive years allowed by present law. Extends the period during which a processor may begin the credit from 1989 to 1991.

#### SECTION 2

Deletes reference to three-year tax credit period and replaces it with reference to five-year period.

#### SECTION 3

Deletes reference to three-year tax credit period and replaces it with reference to five-year period.

#### SECTION 4

The current law only allows a taxpayer to claim tax credits for up to 50 percent of their business tax liability. The section raises the cap to 75 percent in order to allow municipalities, if they so wish, to also participate in the tax credit. The 50 percent tax liability cap will remain in effect for processors who do not receive a municipal tax credit.

#### SECTION 5

Allows a municipality to offer a tax credit for not more than five years, rather than the three years now allowed in present law.

#### SECTION 6

Changes the repeal dates in the current law to reflect a five-year credit rather than a three-year credit.

SECTION 7

Changes a repeal date in the in current law to reflect a five-year credit rather than a three-year credit.

SECTION 8

Changes an effective date in the current law to reflect a five-year credit rather than a three-year credit.

SECTION 9

APPLICABILITY TO EXISTING CREDITS.

Allows municipalities to extend any tax credits they may have already offered from three years to five years.

SECTION 10

Retroactive clause. Makes the five-year tax credit retroactive to the start of the program, Jan. 1, 1987.

SECTION 11

Immediate effective date.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

STEVE COWPER, GOVERNOR

STATE OFFICE BUILDING  
P.O. BOX SA  
JUNEAU, ALASKA 99811-0400

January 20, 1989

The Honorable Tim Kelly  
President of the Senate  
P. O. Box V  
Juneau, AK 99811

Dear Mr. President

The following is a report of the Fisheries Business Tax Credit Program. In accordance with AS 43.75.034 the Alaska Department of Revenue must present a report not later than the 15th day of the legislative session on the Fisheries Business Tax Credit Program under AS 43.75.032.

This program allows fisheries businesses to reduce their tax liability by up to 50% each year over a three year period. This is a temporary program which allows for capital expenditures made in tax years 1987 through 1989 to be claimed as credits on tax returns through tax year 1991.

Qualifying expenditures must be approved by the Department of Revenue in advance and must "increase product diversity, or production efficiency and capacity, or improve product quality, at a shore-based fisheries business facility in the state, or contribute to the development of a cooperative seafood industrial park in the state" (AS43.75.032(a)).

The municipality in which the capital improvements are made may grant the fisheries business an additional credit of 25%. This reduces the municipality's share of the tax that they would ordinarily receive. The total credit taken against the business tax liability each year still may not exceed 50%.

The attached spreadsheets give the details of the estimated expenditures approved for tax credit in 1988 and the actual credits taken for 1987. Total expenditures approved for the 1988 calendar year were \$62,484,038.00. Total expenditures denied were \$8,781,373.00. Generally, denials were for expenditures made prior to approval from the Department, or for expenditures that did not qualify for the credit. Actual credits taken against 1987 taxes which directly reduced FY88 State revenues totaled \$6,714,793.00.

The expenditures were made for the following types of equipment and facilities:

- plant modifications and facility upgrades;
- Baader filleting skinning machines;
- ice houses and refrigeration equipment;
- new and replacement of various pumps and cannery equipment;
- bottomfish and surimi processing equipment;
- forklifts, loaders, cranes, booms, etc.

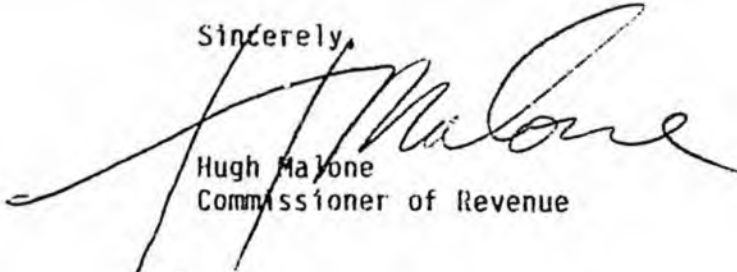
The Honorable Tim Kelly  
January 20, 1989  
Page 2

One city granted the additional credit available for municipal participation in 1987. This did not reduce the city's share of the tax because the tax liability did not exceed the amount of credit already granted by the state. In 1988 three cities participated by granting credit to four processors.

To date no business has sought approval of a credit for construction of an industrial seafood park.

If you have any further questions, please let us know.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. Malone", written in dark ink over the typed name and title.

Hugh Malone  
Commissioner of Revenue

HM:SK:mga  
Enclosures  
89-17



1988 FISHERIES BUSINESS TAX CREDIT  
EXPENDITURE AMOUNTS APPROVED/DENIED

PAGE 1

ENCLOSURE 2

LOCATION OF FACILITY	\$ AMOUNT PENDING	\$ AMOUNT APPROVED	\$ AMOUNT DENIED	REASON FOR DENIAL
AKUTAN		\$403,000.00		
ALITAK		\$98,000.00		
ANCHORAGE		\$430,000.00		
ANCHORAGE		\$381,600.00		
BETHEL		\$51,000.00		
CHIGNIK		\$491,643.00	\$305,000.00	NO PRIOR APPROVAL
CORDOVA			\$23,830.00	MESSHALL
CORDOVA		\$1,062,702.00		
CORDOVA		\$902,100.00		
CORDOVA			\$79,550.00	COMPUTER
CORDOVA		\$832,802.00	\$61,650.00	INVENTORY CONTROL/NPA
DILLINGHAM		\$682,400.00		
EGBEK		\$26,250.00		
EGBEK		\$110,500.00		
EKUK		\$1,836,997.00		
FLOATERS			\$360,000.00	FLOATERS
GUSTAVUS		\$60,000.00		
GUSTAVUS		\$5,050.00		
HAINES		\$39,000.00		
HOMER		\$239,300.00		
HOMER			\$5,557.00	NO PRIOR APPROVAL
JUNEAU		\$8,000.00		
JUNEAU		\$589,000.00		
KASLOF		\$774,413.00	\$93,707.00	VARIOUS
KASLOF RVR		\$381,600.00		
KENAI			\$9,000.00	SKIFF/MOTOR
KENAI		\$437,225.00	\$14,500.00	RADIO EQUIP
KENAI			\$3,000,000.00	BUY EXISTING FCLTY
KENAI		\$996,558.00		
KENAI			\$42,864.00	NO PRIOR APPROVAL
KENAI		\$460,000.00	\$10,000.00	TRUCK/RADIO
KENAI		\$1,256,450.00	\$364,600.00	VARIOUS
KENAI		\$192,626.00		
KENAI		\$241,450.00		
KETCHIKAN		\$186,260.00		
KETCHIKAN		\$617,105.00		
KODIAK		\$422,590.00	\$20,000.00	TRUCK/PHONE/PAVING
KODIAK		\$1,635,000.00	\$15,000.00	VEHICLE
KODIAK	\$6,000.00	\$32,600.00	\$15,000.00	COMPUTER
KODIAK		\$1,136,600.00		
KODIAK		\$4,215,000.00		
KODIAK		\$218,800.00	\$18,000.00	NO PRIOR APPROVAL
KODIAK		\$935,000.00	\$1,085,000.00	WAREHOUSE/TRUCK OVERHAUL
KODIAK		\$450,000.00		
KODIAK ISL		\$244,300.00	\$189,900.00	COMPUTER
NAKNEK		\$417,075.00	\$38,592.00	BUNKHOUSE/MESSHALL
NAKNEK		\$1,303,000.00	\$291,300.00	TRUCK/BKHSE/BULLDZR
NORTH POLE		\$57,140.00		
PELICAN		\$59,100.00		
PETERSBURG		\$1,944,600.00		
PETERSBURG		\$70,350.00		
PORT GRAHAM		\$124,623.00	\$25,739.00	COMPUTER
PT BAILEY		\$494,000.00		
S IIAKNEK		\$801,480.00		

1988 FISHERIES BUSINESS TAX CREDIT  
 EXPENDITURE AMOUNTS APPROVED/DENIED  
 PAGE 2

ENCLOSURE 2

LOCATION OF FACILITY	\$ AMOUNT PENDING	\$ AMOUNT APPROVED	\$ AMOUNT DENIED	REASON FOR DENIAL
SEWARD		\$3,121,000.00		
SEWARD		\$1,347,472.00		
SITKA		\$252,250.00	\$14,500.00	VARIOUS
SITKA		\$80,624.00		
STERLING			\$156,963.00	NO PRIOR APPROVAL
STERLING		\$235,000.00		
STERLING			\$75,000.00	OFFICE/STORE
TOGIAK		\$30,969.00		
TOGIAK		\$163,000.00		
UNALASKA		\$605,213.00	\$647,581.00	NO PRIOR APPROVAL
UNALASKA		\$16,500,000.00		
UNALASKA			\$1,198,740.00	BUNKHOUSE
VALDEZ		\$5,459,500.00	\$610,000.00	BUNKHOUSE/LOCKER RM
VALDEZ		\$5,470,721.00		
WRANGELL		\$104,000.00		
WRANGELL		\$13,000.00		
YAKUTAT		\$747,000.00	\$9,800.00	VARIOUS
<b>TOTALS</b>	<b>\$6,000.00</b>	<b>\$62,484,038.00</b>	<b>\$8,781,373.00</b>	



RECEIVED JAN 30 1989

# Southwest Alaska Municipal Conference

*Putting Resources to Work For People*

1007 West 3rd Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-7555

## RESOLUTION NO. 88-37

A RESOLUTION OF THE SWAMC REQUESTING THE AMENDMENT AND EXTENSION OF AS 43.75.032 WHICH AUTHORIZES STATE FISHERIES BUSINESS TAX CREDITS TO FISH PROCESSORS.

WHEREAS, AS 43.75.032 enables an onshore fish processor to receive a State Fisheries Business Tax Credit for capital improvements to the fish processing plant, and

WHEREAS, this credit has assisted many onshore fish processors in Southwest Alaska to upgrade and expand processing facilities, which has assisted long-term economic development of the region and the State; and

WHEREAS, the initial legislation authorized the tax credits for only a three year period and expires on January 1, 1992; and

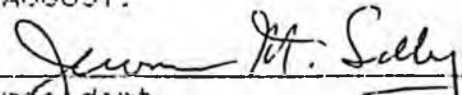
WHEREAS, legislation was introduced in 1988 to extend the credit to a five year period and the expiration date an additional 2 years, but this legislation was not adopted; and

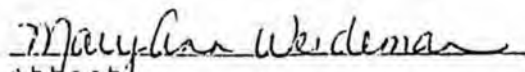
WHEREAS, the municipalities in Southwest Alaska believe the tax credit program has resulted in economic development in their community and that extending the credit would better enable the onshore fish processing industry to capitalize on the increase in bottomfish and other fisheries development.

NOW THEREFORE BE IT RESOLVED that the SWAMC requests that the State Fisheries Business Tax Credit authorized in AS 43.75.032 allow credits for a period of five years and that the expiration date be extended an additional two years.

BE IT FURTHER RESOLVED that SWAMC requests that the legislature allow local municipalities to give an additional 25% credit.

PASSED AND ADOPTED THIS 28TH DAY OF AUGUST.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Attest

CHUGACH FISHERIES, INC.



4241 - 21st AVENUE WEST, SUITE 204  
SEATTLE, WA 98199  
PHONE (206) 284-0804

RECEIVED JAN 13 1989

January 10, 1989

Senator Fred F. Zharoff  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Fred F. Zharoff

The purpose of this letter is to ask for your support in promoting the extension of the capital improvement tax credit program. I understand that review of the program is set for legislative session scheduled in January.

The program had allowed our company a chance to improve our ability to produce a better quality product as well as open new markets and in turn received higher value for our product. Our added capital expenditures had brought positive contributions to the Alaskan business communities as well as increased local employment.

I am aware of the fact that you're one of the original supporter of the program therefore counting on you for your continued support to our industry.

Thank you in advance for your support.

Very truly yours,  
Chugach Fisheries, Inc.

A handwritten signature in cursive script that reads "L. Cambronero".

Larry Cambronero  
V.P. Operations

RECEIVED JAN 12 1989

## CITY OF KING COVE

P.O. Box 37 • King Cove, Alaska 99612 • (907) 497-2340

January 10, 1989

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

RE: City King Cove 1989 Legislative Priorities

Dear Senator Zharoff:

The King Cove City Council, at its December 21 meeting established the City's priorities for this legislative session. The City's priorities are outlined below. The City will provide more specific information on its number one harbor development capital project priority following its January 11 Council Meeting.

### CAPITAL PROJECT PRIORITIES

1. The City's number one capital project priority is to further the development of its boat harbor. The priority developments include construction of a 150-ton boat haulout facility for \$1.1 million; construction of an inner or outer harbor dock, cost range of \$750,000 to \$1.8 million; and, providing central water service to the harbor, estimated cost of \$420,000. Each of these projects will expand the range of services that can be provided at the harbor and will support the local and regional fishing industry.

The Aleutians East Borough has awarded the City \$300,000 and the City can contribute about \$200,000 to assist in constructing its preferred harbor project. The City Council will select its preferred project to begin constructing this calendar year at its January 11 meeting. The City will be seeking additional monies from the State to complete its number one priority. The City will provide you additional information following its January 11 meeting. Furthering development of its small boat harbor has been the City's number one capital project priority for the last four years and remains such in FY89.

2. The second highest capital project priority for the City is upgrading the City-owned and operated electrical system. The City's existing power generation and electrical distribution system is inefficient and in need of replacement. The City has pursued construction of a hydroelectric project as a long-term solution to its power generation needs, but its immediate efforts must focus on replacing about one-third of its distribution

Honorable Fred Zharoff  
January 10, 1989  
Page 2

system. The City is working with the firm of Reeve Engineers to complete engineering and construction cost estimates for this work and should have a detailed estimate by early February. A preliminary estimate is \$250,000.

An alternative the City has discussed with your staff is reappropriating the \$150,000 in Jobs Bill monies the City received last year for the hydroelectric transmission/distribution line to the priority distribution system replacements. The City is writing the Department of Administration to request the use of these monies for this purpose, but if the Department rejects the request, we would like to pursue reappropriation of the monies.

The City can financially participate in the capital project(s) it pursues and hopes to use State legislative appropriations to complete the project. Also, the City suggests that the State consider use of bond monies to assist in constructing the projects.

#### FISHERIES PRIORITIES

1. Full-funding support for the Russel Creek hatchery is the City's number one fisheries development priority. King Cove fishermen have directly benefited from past hatchery production, including chum salmon, and believe the hatchery can play a major role in the continued health of the area's salmon fisheries.
2. The North Pacific Fisheries Management Council is preparing to limit access to the sablefish fishery. The City supports open access and implementation of a system that will allow King Cove fishermen to continue their participation in the sablefish fishery. Local fishermen have been investing monies in their boats to allow them to harvest sablefish, and the limited access systems proposed by the NPFMC could eliminate their participation. Area fishermen need State support for their position.
3. Amendments to the Marine Mammal Protection Act require a domestic observer program for vessels participating in the False Pass salmon fisheries. The City requests State support to minimize the detrimental impacts to local fishermen through implementation of a domestic observer program.

TAXATION PRIORITIES

*Suggestion*

1. The number one City priority is for the State to immediately pay all municipalities the full amount of the local share of calendar year 1987 State Fisheries Business Tax revenues due municipalities. To date, King Cove and other cities have only received about 65% of the total shared revenues they were supposed to receive in August, 1988. The late receipt of these monies is affecting the City's cash flow position. In addition, the City advocates the State adopting measures which require the State to fully share these revenues at the start of each fiscal year.

*\**

2. The City supports extending the State Fisheries Business tax credit program for onshore processors that invest in capital improvements. The extension has directly benefited the onshore processor located in King Cove and thus, the local fishing economy.

SERVICE PRIORITIES

*D. W. ...*

1. The City supports continued and full-funding for the community clinic grant program administered by Health and Social Services. The City has received \$40,000 over each of the last several years and this support is essential to the City providing mid-level practitioner services.

*CP5*

2. The City supports continuation of the VPSO program, particularly the VPSO position in King Cove. The VPSO performs vital public safety functions in the community, such as emergency management and fire protection. The VPSO is the only non-School District State funded position in King Cove.

*By...*

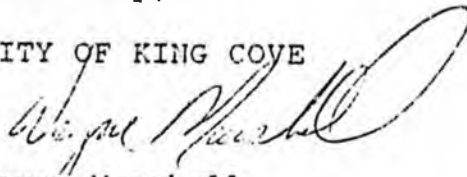
3. The City would like two additional trips per year from the M/V Tustemena and supports increased service to King Cove and other Alaska Peninsula communities. The ferry is a main link between the Southcentral Alaska and King Cove economies and the City would like to foster this relationship.

Honorable Fred Zharoff  
January 10, 1989  
Page 4

The City recognizes that the State budget will be very limited this year and only the best projects and programs can go forward. The City is prepared to work in partnership with the State to fund the City's desired priority capital project and will send information on the preferred project following the City's January 11 meeting. The City and I look forward to working with you to achieve the City's priorities.

Sincerely,

CITY OF KING COVE



Wayne Marshall  
City Manager

WM/kd

cc: Harvey Mack, Mayor  
King Cove City Council

# Alaska State Legislature

Senate Advisory Council



PO. Box V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## MEMORANDUM

TO: Senator Arliss Sturgulewski  
Alaska State Senate

ATTENTION: Frank Hoffman

FROM: Richard Rainery  
Senior Analyst *RR*

DATE: November 22, 1988

SUBJECT: Fisheries Business Tax Credit and Revenue Sharing Programs  
Research Request No. 83-003324

You have requested information concerning the consequences of implementing the Fisheries Business Tax credit program and the results of the municipal revenue sharing feature of the same tax, including the provision calling for phased activation of full revenue sharing for newly formed boroughs. While tax revenues derived from the sale of raw fish have been shared by the State of Alaska with the municipalities of origin for a number of years now, both the tax credit program and the new borough share phase-in are recent amendments to the law. As such, information concerning their influence on the seafood industry and municipal finances and economies is still sketchy. Your question is rather broad and while this memorandum will touch on all aspects of the tax credit and revenue sharing programs, the subject is broad as well. I refer you to a recent draft Senate Advisory Council report, Community Fisheries Development, which includes a discussion of state fisheries taxation policy for additional information. Copies have been provided to your office.

### I. Fisheries Business Tax Credit Program

Credits against the tax liabilities of seafood processing industry firms were made available for calendar years beginning in 1986. A firm may claim a credit of up to 50% of annual tax liability for the costs of certain capital investments at shoreside facilities. Eligible improvements, which must be approved in advance by the Alaska Department of Revenue (ADOR), include facilities which diversify products, increase efficiency, quality, and capacity or development of cooperative seafood industrial parks. The full amount of an approved credit may be applied against up to three years' tax liabilities. The basic intent of the tax credit, as well as some other aspects of the tax's structure, is to encourage expansion of existing facilities into new processes

and products and to entice new processing capacity to locate on Alaskan terra firma rather than operating at sea, which is the predominant trend at present, particularly in the groundfish fisheries.

Has the provision of the tax credit lured the seafood industry ashore? Within the near future there will be some fifty U.S. factory trawlers (most in excess of 200 feet in length) operating in the Alaskan Exclusive Economic Zone (EEZ), up from none just a few years ago. There are plans for at least two 600 foot processing vessels as well. These ships will not be replacing existing shore based capacity, but displacing the foreign processing components of at sea joint ventures as the "Americanization" of the EEZ continues. That process should be complete within about two years. It is predicted that 80% of the bottomfish catch will be processed at sea. A variety of factors assure that floating processing will predominate. Combined operations are more profitable, transshipment to tramp freighters is more efficient than calling at shore, better quality products are assured by immediate processing of catches, and suitable sites for plants are scarce on the Bering Sea coast. These are not absolutes, there are factors which favor shore based facilities<sup>1</sup>, but no reversal in the trend of the last few years is apparent yet.

Measuring the economic benefits of tax incentives in general is a difficult task. Despite the proliferation of special tax treatment for a variety of industries in states across the nation, rare has been the rigorous analysis of the economic effect of an incentive. Nor have state governments made concerted efforts to assess the revenue impacts of incentives. This is generally the case in Alaska. The fisheries business tax credit program is still too new to judge fairly and completely. It is true that, since the credit was implemented, processing companies have filed for and received approval from ADOR for a huge amount of expenditures for qualifying improvements. These are recorded in Table 1. It should be noted that these data are preliminary and "unaudited". Their value lies in their representation of gross magnitude rather than as a precise rendering of circumstances.

When lobbying for the enactment of the credit program, processing interests were careful not to claim that sensational growth of shore based processing capacity would result, but asserted that it was a necessary element in any meaningful attempt to spark such expansion. Approved applications for credits now exceed \$113 million in amount for calendar years 1987 and 1988. This represents a significant percentage of the assessed value of existing shore plants, perhaps as much as one third. Comprehensive estimates on statewide assessed values are not available, but a partial survey in 1987 identified about \$210,000,000 in capital assets (see Community Fisheries Development).

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<sup>1</sup>The fisheries business tax rate structure favors shore plants and capital and labor costs are lesser on land.

Table 1  
Fisheries Business Tax Credit Investments  
(Calendar Years 1987 and 1988)

	1987	1988*	Both Years
Approved Expenditure	\$55.2	\$58.6	\$113.8
Potential Credit	27.6	29.3	56.9
Actual Expenditure	37.6	39.9#	77.5
Actual Credit	18.8	19.9#	38.7
Credit Claimed	6.7	14.4	21.1

Source: ADOR, 1988.

\* As of November 1988.

# Estimates based on 1987 patterns.

Annual tax collections have ranged between about \$15 million and \$25 million since Fiscal Year 1980. One-half of total tax liabilities represents the upper limit on credits, if all processors had been eligible for the full 50%. It is not surprising that actual credits have been less than the approved level thus far; individual company tax bills are small enough that most larger credit amounts will have to be spread out over three years to be fully used. Credits claimed on 1987 tax returns reduced state revenues by \$6.7 million, only about one third the value of credits earned. 1988 expenditures are forecast to be only slightly higher than those of 1987, but credits will be more than double 1987 levels principally due to carryover from that year. State revenues have declined as a result. Increased harvest values have kept collections relatively high, but will not counterbalance the loss of income resulting from use of credits and the state's portion after revenue sharing has substantially decreased (see the next section for more details).

The fundamental issue, in light of this information, is whether the investments in question would have been made in the absence of the credit. The answer to that question is not clear. It presupposes knowledge of the innermost workings of corporate decisionmaking that is not usually available to government researchers. Certainly, it has been the position of business in general that tax incentives are meaningful and oftentimes essential elements in

certain decisions.<sup>2</sup> I certainly cannot dispute that position in this case. It is, however, not the claim of the Alaskan processing industry that these investments would not have occurred absent the credit. Rick Lauber, vice-president of the Pacific Seafood Processors Association (PSPA), says that he would not make that assertion. He does say that the level of investment since the enactment of the credit has surprised him, both the amount and the number of processors participating (over 40 in both years). He believes that the credit has definitely influenced the timing of investments. Given the rapid development of the Bering Sea bottomfish industry, that circumstance may be the real benefit of the credit, permitting the capture of a portion of the harvest for shore plants before the domestic processing sector becomes fully developed. It would seem, however, that the shore plant sector was in a "fish or cut bait" situation and in order to compete had to invest to adapt to the new fisheries and markets. The credit surely made those investments more attractive.

Mr. Lauber cited one case in which the credit was instrumental in a decision for a major expansion of one shore plant, although perhaps in an unforeseen manner. A major Aleutian processor had determined to expand capacity and diversify, but was debating whether to do so at an existing shore plant or to add to its fleet of floating processors. The plans of the newly formed Aleutians East Borough to assess a 2% tax on the sale of raw fish would have been the straw that tipped the scale in favor of at sea processing had it not been for the availability of the fisheries business tax credit. As a result, a \$14 million dollar expansion to the firm's shore plant went forward.

A significant portion of ADOR approved expenditures are for bottomfish processing. According to Dick Reynolds of the Office of Commercial Fisheries Development in the Alaska Department of Commerce and Economic Development, the following rough categories of investment were approved in 1987:

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|--|------------------|
| 1. Docks, unloading, and holding facilities      | - \$ 4.7 million |
| 2. Ice or refrigeration/freezing facilities      | - 7.4 million    |
| 3. Buildings or utilities                        | - 16.2 million   |
| 4. Standard finfish/shellfish species processing | - 4.1 million    |
| 5. Other value added processing                  | - 2.4 million    |
| 6. Bottomfish fillets                            | - 8.9 million    |
| 7. Surimi  | - 9.9 million    |
| 8. Other (including fishmeal and oil processing) | - 4.4 million    |

Approximately \$40 million of the \$58 million total was identified by Mr. Reynolds as capital improvements for bottomfish processing plants, so it would seem as though the money (if indeed all these planned investments come to fruition) is largely being spent in that developing sector as intended by law.

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<sup>2</sup>Although most research has suggested incentives are not necessary or are poorly designed, there are respectable arguments on both sides of the issue.

At present little concrete information is available on how these investments, actual or prospective, will affect the Alaskan seafood industry and the overall state economy. The industry is presently booming, with the value of catches to fishermen and processors increasing on an annual basis, despite the fact that fewer of the most highly valued species, salmon, have been landed in each of the last two years. Construction of refrigeration facilities will enable processors to adapt to changing markets in which frozen salmon are displacing canned fish and in which frozen bottomfish fillets are an increasing piece of the pie. Frozen fish are generally higher in value than canned products and the fact that they may as well be held in inventory during periods of product surfeit should help to strengthen somewhat the market position of processors of Alaskan fish.

At this point it would be speculative to attempt to determine whether there have been any employment gains attributable to the credit program. While the credit focusses on capital investment, it is certain that some increased employment will result from capacity growth and product diversification. Whether new jobs will be filled by Alaskans or non-residents is the question. Recently about 70% of shore based processing jobs have been filled by non-resident seasonal workers. Statewide, seafood processing employment increased by 100 jobs (less than 1%) between August (a peak month) 1987 and August 1988. The increase appears to have been centered in Southeast Alaska, where little bottomfish is processed. If there is a substantial increase in workforce at bottomfish plants, that may be more likely to benefit the site communities since most such plants will operate on a year-round basis as opposed to the seasonal nature of the established fisheries. Even if labor is imported, many non-residents may perforce become de facto residents.

Although the financing of construction of new facilities is eligible under the credit program, no applications for new plants have been made says John Hansen, supervisor of the audit office of the Income and Excise Tax Division of ADOR. All approved expenditures have been for existing or previously planned investments. Credit use has yet to affect much of maritime Alaska; eligible investment occurred in but 22 communities in 1987. Some 63% of the dollar value of approved 1987 applications were from only three communities (Akutan, Kodiak, and Unalaska) and 87% originated in but 10 communities. In 1988, the top three (Kodiak, Unalaska, and Valdez) accounted for 60% of approved value, while the top ten sites had 89%.

A final note on the credit program: Mr. Lauber of PSPA asserts that the program could be of added benefit to the state, particularly in terms of resident employment if a clarification to the law were made. The processors believe that the construction of employee housing should qualify for the credit. ADOR has not agreed and has not approved such expenditures. PSPA contends that if apartment or detached housing were eligible under the program, permanent residents could be attracted to Alaskan communities. Many communities in which plants are located are chronically short of housing. The

provision of decent housing combined with year-round employment could, in Mr. Lauber's opinion, help to ameliorate the transient, temporary nature of most processing employment. He believes that if companies operating factory trawlers and other at sea processing vessels could qualify for credits for investments in housing, a number of such vessels could be enticed to homeport in Alaska. Of the fifty or so factory trawlers licensed to fish the Alaskan EEZ, no more than ten are homeported in Alaska. Increasing that number would obviously strengthen local and regional fishing and support sector economies.

II. The Fisheries Business Tax Revenue Sharing Program

The fisheries business tax has been a significant contributor to the state treasury (in relative terms) for only the last ten years. Total collections topped \$10 million dollars for the first time in FY 1979 and since FY 1981 have ranged from about \$19 million to \$26 million. Figure 1 displays state and municipal shares since FY 1979, with estimates for FY 1989 - 1990, and shortfalls in municipal shares for FY 1987 - 1988 when appropriations were insufficient for full funding. Since the 1981 amendment to the law which

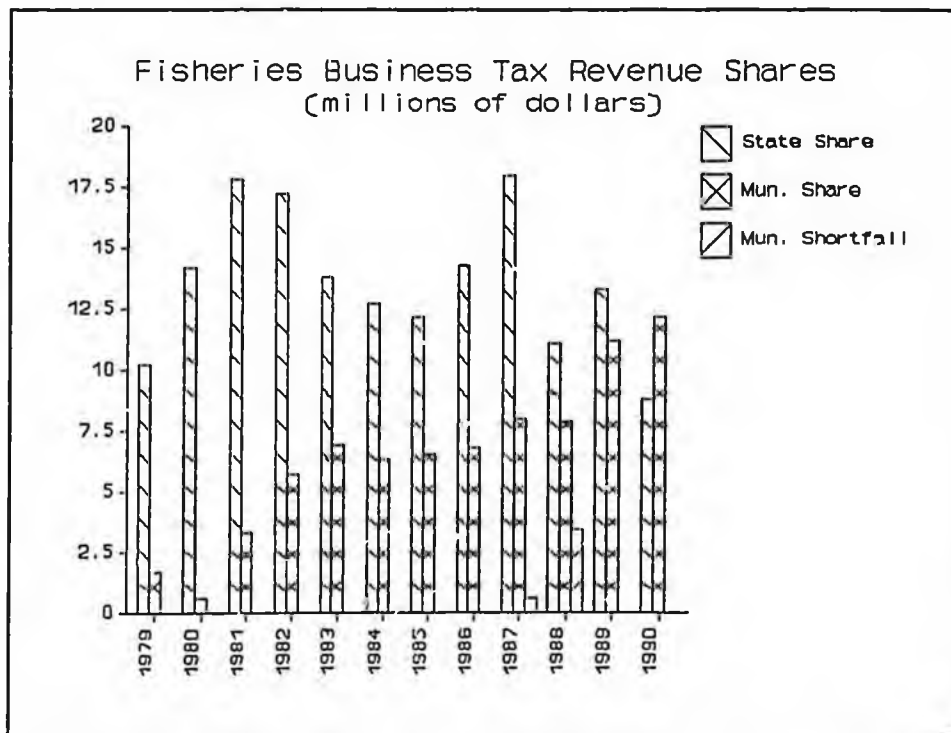


Figure 1 FY 1989 and FY 1990 shares estimated.

Source: ADOR, 1988.

increased the municipal share of locally generated revenues from 20% to 50%, municipal shares have been steadily rising. The proportion of state/municipal shares had settled into about a two thirds/one third pattern for the five years beginning in FY 1983. That relationship changed in FY 1988 as taxpayers began claiming credits. The state share dropped to only 49% of revenues with municipalities entitled to 51%, although the latter received only 35% as legislative appropriations were insufficient for full distribution.<sup>3</sup> Although total liabilities in FY 1988 were a record \$29.1 million, state revenues declined in absolute, as well as relative, terms, compared to the previous year. Strong harvests and good prices pushed up revenues, but the tax credit reduced the state share of the total by \$6.7 million for the year. Absent the credit, the rough FY 1983 - FY 1987 proportion of state/municipal shares would have prevailed.

ADOR projections of fisheries business tax revenues and the distribution of those revenues for the present and coming fiscal year (Elliot, pers. com., 1988) are as follows:

<u>FY 1989</u>	
State share	- \$13.3 million
Municipal share	- 11.2 million
Municipal shortfall	- 3.4 million
Credits	- 14.4 million
<u>FY 1990</u>	
State share	- \$ 8.8 million
Municipal share	- 12.2 million
Credits	- 8.9 million

The increased state share in FY 1989 reflects the high prices received by fishermen during 1988. The decline in FY 1990 is indicative of ADOR's opinion that those high prices will not be duplicated next year. The increase in the FY 1989 credit amount is the result of the carryover of approved but unclaimed FY 1988 credits (some \$23 million). As that carryover diminishes, the overall level of credits claimed is expected to decline in FY 1990. So for the period FY 1988 - FY 1990, the net state share of gross fisheries business tax collections is forecast to decline by \$30 million as a result of credits against the tax liabilities of processors. State revenues for the period are forecast to decline to levels comparable to those of FY 1979, before the present tax structure was adopted (FY 1989 must be regarded as an anomaly at present as inflated salmon prices raised the total ex-vessel value for those species for the 1988 calendar year by over 40% above the previous record).

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<sup>3</sup>The \$600,000 shortfall in FY 1987 distributions to municipalities was wiped out by a supplemental appropriation the following year. Supplemental funding for the FY 1988 shortfall has been requested by ADOR for FY 1990.