

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6219 SENATE COMMUNITY & REGIONAL AFFAIRS

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misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount.

(j) Notwithstanding (a) — (i) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(k) A loan may not be insured from a loan insurance account within the enterprise development fund if the loan is for a project the cost of which exceeds \$10,000,000.

(l) A loan in excess of \$1,000,000 may not be insured from a loan insurance account within the enterprise development fund unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.157. Renumbered in 1980. Effect of amendments. — The 1981 amendment added subsections (j) — (l).

Sec. 44.88.158. Small enterprise loan account. (a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small enterprise loan account to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small enterprise to pay the cost of a project, as defined in AS 44.88.220, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural enterprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose. (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981)

Revisor's notes. — Formerly AS 44.61.158. Renumbered in 1980.

Effect of amendments. — The 1981 amendment rewrote this section.

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or expected by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or expected by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. (§ 41 ch 115 SLA 1981; am § 54 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "expected" for "excepted" in the first sentence of subsection (a).

Article 4. General Provisions.

Section	Section
160. Findings of the authority	177. Operation of projects
165. Delinquent loans	180. Conflicts of interest
170. Purchase of project and leases	190. Operation of certain statutes excepted
172. Economic development fund	200. Annual audit
173. Finance plan	205. Operating budget
174. Regional resource advisory council	210. Reports and publications
175. Requirements prior to approval of projects	212. Fees charged by authority
176. Hearing to consider proposed project	220. Definitions

Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of \$6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of \$6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

(1) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;

(2) the project applicant is financially responsible;

(3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;

(4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and

(5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.160. Renumbered in 1980.

Effect of amendments. — The 1980 amendment divided the former section into two sentences by deleting "and"; in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of \$6,000,000" for "as mentioned

in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end; and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under this chapter becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution for which it has not already made a purchase commitment and may not make new commitments to purchase loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981; am § 55 ch 113 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "for which it has not already made a purchase commitment and" may not make new commitments to purchase loans from that financial institution."

Sec. 44.88.170. Purchase of project and leases. (a) Nothing in this chapter prevents the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AC 44.61.170. Renumbered in 1980.

Sec. 44.88.172. Economic development fund. (a) The economic development fund is established in the authority. The fund consists of money or assets appropriated, loaned, or transferred to the authority, and other money or assets deposited in the fund by the authority. The fund may only be used to finance, acquire, manage, and operate projects that the authority intends to own and operate. The term "operate" includes operation directly by the authority, or by an agent of the authority.

(b) If a project is financed or developed through use of the assets of the economic development fund, the authority may not pledge or use other assets of the authority to assist in the financing, development, or operation of the project. However, whether or not the authority uses the economic development fund, it may issue bonds to finance a project and may secure the bonds with a mortgage, pledge, or assignment of the project or of revenues, money, or agreements attributable to the project or the bonds as provided in Sec. 10 of this Act. (§ 8 ch 162 SLA 1984)

Cross references. — For requirement of legislative approval prior to the issuance of bonds to finance projects under this section, and for expression of legislative intent, see §§ 10 and 11, ch. 162, SLA 1984 in the Temporary and Special Acts.

Sec. 44.88.173. Finance plan. (a) Before approving a project financed under AS 44.88.172, the authority shall prepare a finance plan. The finance plan must include an estimate of the total cost of the project, and a description of the sources of money that will be used to

finance the total cost of the project. The finance plan must also include an estimate of the operational costs of the completed project, as well as a description of the source of the money that is to be used to pay the operational costs.

(b) The authority shall give preference to a project that does not require financial assistance from the state. If the authority determines that a project requires state financial assistance, and if the authority further determines that it is desirable to finance the project, the authority shall recommend a method of financing that minimizes cost to the state. A finance plan required under (a) of this section must identify the method of financing that minimizes the cost to the state.

(c) The authority shall submit a finance plan prepared under this section to the state bond committee, the governor, and the legislature before issuing bonds or otherwise incurring debt for the project. If a project requires financial assistance from the state, the state financial assistance must be available before bonds are issued for the project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.174. Regional resource advisory council. (a) Within 30 days after the authority adopts a resolution certifying that a project in the unorganized borough is eligible for financing under AS 44.88.172, the governor shall appoint a Regional Resource Advisory Council in the area of the state where the project is to be located and for which a regional housing authority has been established under AS 18.55.996. The purpose of a council is to assist the authority in reviewing a project that has been proposed for development in its area of the state.

(b) A Regional Resource Advisory Council consists of five members registered to vote in the region. The governor shall appoint the members to reflect the economic and geographic diversity of the region. Council members serve three-year terms at the pleasure of the governor, except that the initial members may be appointed for less than three years so that the term of at least one of the members expires each year. The governor shall appoint a chairperson who shall call meetings as required and preside over the deliberations of the council. A majority of the council constitutes a quorum for conducting the business of the council.

(c) Members of a Regional Resource Advisory Council do not receive compensation for their services on the council, but are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 8 ch 162 SLA 1984)

Sec. 44.88.175. Requirements prior to approval of projects. (a) Before entering into an agreement to finance or to develop a proposed project with a cost in excess of \$10,000,000 that is financed under AS 44.88.172, the authority shall obtain the approval of each Regional Resource Advisory Council or municipality in the area in which the

proposed project is to be located. Approval under this subsection must be evidenced by a certified copy of a resolution of the council or of the governing body of the municipality.

(b) Before approving a project financed under AS 44.88.172 for which bonds must be issued, the authority shall

(1) obtain approval under (a) of this section;

(2) find, on the basis of all information reasonably available to it, that

(A) the project and its development under this chapter will be economically advantageous to the state and to the general public welfare and will contribute to the economic growth of the state;

(B) the project applicant is financially responsible;

(C) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed;

(D) increased demand on public facilities that might result from the project will be provided for;

(E) the project will provide or retain employment reasonably related to the amount of the financing by the authority, considering the amount of investment per employee for comparable facilities, and other relevant factors;

(F) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state;

(G) the project is in compliance with applicable law; and

(H) issuance of the bonds is not expected to adversely affect the ability of the state or any political subdivision of the state to market other bonds. (§ 8 ch 162 SLA 1984)

Sec. 44.88.176. Hearing to consider proposed project. Before considering a resolution regarding the approval or rejection of the development or financing of a proposed project with a cost in excess of \$10,000,000, that is financed under AS 44.88.172, a Regional Resource Advisory Council shall conduct a public hearing within the region. If a proposed project is located within a municipality, the governing body of a municipality shall conduct a hearing on the proposed project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.177. Operation of projects. If a project is financed under AS 44.88.172, the authority shall solicit the review and advice of the Regional Resource Advisory Council or governing body in the area in which a project is located before the execution of contracts, agreements, resolutions, or other matters that directly concern the development, maintenance, and operation of a project. (§ 8 ch 162 SLA 1984)

Sec. 44.88.180. Conflicts of interest. (a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the

member is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association that may be a party to the contract or lease. A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes. (§ 1 ch 64 SLA 1967; am § 56 ch 113 SLA 1982)

Revisor's notes. — Formerly AS 44.61.180. Renumbered in 1980.

Effect of amendments. — The 1982 amendment, in subsection (a), substituted "A member of the authority may not" for "No member of the authority may," "the member" for "he," and "that may be" for "which may be" in the first sentence, rewrote the second sentence, which formerly read, "If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating

to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition: commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety."

Sec. 44.88.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) except as provided in AS 44.88.205, a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution. (§ 1 ch 64 SLA 1967; am § 67 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.190. Renumbered in 1980.

Effect of amendments. — The 1980

amendment inserted "except as provided in AS 44.88.205" preceding "a state agency" near the middle of subsection (a).

Sec. 44.88.200. Annual audit. The authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (§ 1 ch 64 SLA 1967)

Revisor's notes. — Formerly AS 44.61.200. Renumbered in 1980.

Sec. 44.88.205. Operating budget. For fiscal years beginning after June 30, 1981, the operating budget of the authority is subject to the Executive Budget Act (AS 37.07). (§ 68 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.205. Renumbered in 1980.

Sec. 44.88.210. Reports and publications. (a) By January 10 of each year, the authority shall publish a report for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report shall include a financial statement audited by an independent outside auditor, a statement of the authority's investments under this chapter including an appraisal of the investments at market value, a comparison of the authority's performance with the goals of the authority and the levels of bonding and investment activities anticipated in the previous year's report under (b) of this section, and any other information the members of the authority believe would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the authority shall be published in at least one newspaper in each judicial district. The authority may also publish other reports it considers desirable to carry out its purpose.

(b) The authority shall include in its annual report under (a) of this section

(1) an estimate of the investment activity of the authority under this chapter for the following 12-month period; and

(2) an estimate of the amount of bonds to be issued during the following 12-month period. (§ 1 ch 64 SLA 1967; am § 69 ch 106 SLA 1980)

Revisor's notes. — Formerly AS 44.61.210. Renumbered in 1980. Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44 88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan. (§ 34 ch 115 SLA 1981)

Revisor's notes. — Enacted as AS 44.88.085. Renumbered in 1981.

Sec. 44.88.220. Definitions. In AS 44.88.010 — 44.88.220

(1) "authority" means the Alaska Industrial Development Authority created by AS 44.88.010 — 44.88.220;

(2) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose, other than on a nonprofit basis;

(3) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158;

(4) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(5) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(6) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(7) "plant" or "facility" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, and may include fixtures, machinery, and equipment on it or in it, and tangible personal property, regardless of whether the tangible personal property is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(8) "project" means

(A) a plant or facility used or intended for use

(i) in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature;

(ii) as an industrial park; in connection with transportation; for the prevention, limitation or control of pollution; for the disposal of sewage or solid waste; for the local furnishing of gas; for the furnishing of water; as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or as a storage or training facility directly related to a plant or facility described in this paragraph;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a small enterprise;

(9) "project applicant" means a business enterprise or enterprises proposing to

- (A) use or occupy a project; or
- (B) agree to permit others to use or occupy a project;

(10) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction, expansion, or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction, expansion, or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction, expansion, or acquisition;

(11) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(12) "small enterprise" means a business enterprise which is a project applicant with gross income of \$10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980; am §§ 43 — 47, 51 ch 115 SLA 1981; am § 9 ch 162 SLA 1984)

Revisor's notes. — Formerly AS 44.61.220. Renumbered in 1980.

Reorganized in 1984 to alphabetize the defined terms.

Effect of amendments. — The 1980 amendment, in paragraph (2), inserted "single proprietorship" and substituted "which is not organized on a nonprofit basis" for "or a single proprietorship"; in paragraph (4), deleted "borough" preceding "assembly" and added "or a unified municipality" to the end; so changed paragraphs (5), (6), and (9) as to make a detailed comparison impracticable; deleted former paragraph (7), which defined "project", in paragraph (8), substituted "or tangible personal property, and, in connection with real property" for "property" and "the cost of a project includes, without limitation, the

cost of financing the project" for "the cost of financing the project, including, without limitation"; in paragraph (11), deleted "real" preceding "property" in two places; and added paragraphs (12)-(15).

The 1981 amendment substituted "for any business purpose, other than" for "which is not organized" in paragraph (2). The amendment rewrote paragraphs (8) and (12). In paragraph (10), the amendment added "expansion" following "construction" in three places. The amendment also added paragraph (13).

The 1984 amendment divided the formerly undivided subparagraph (A) of paragraph (8) into introductory language and items (i) and (ii) and, in item (ii), added "as or in connection with mass commuting vehicles; for local district heating or cooling; as a parking facility; or

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BIOGRAPHICAL SKETCH

Donald G. Dunshie, President
Jefferson Economic Council

BORN: Minneapolis, Minnesota

EDUCATION: Graduate University of Minnesota, B.A. Urban Ceography
Graduate Industrial Development Institute,
University of Oklahoma

PREVIOUS EXPERIENCE: St. Paul Port Authority - 1971 to 1986
Served as Assistant Executive Vice President and
Director of Industrial Development for this
quasi-public agency that developed ten industrial
parks and more than 14 million square feet of office
and commercial space.

OTHER EXPERIENCE: Assistant Director of Industrial Development,
State of Minnesota
Regional Industrial Planner,
St. Louis Regional Industrial Development Authority
Area Development Representative,
Minnesota Natural Gas Company

ASSOCIATIONS: Industrial Development Research Council
National Association of Office and Industrial Parks
American Economic Development Council - Chairman-Elect
of the Council, a 1,500 member international economic
development organization headquartered in Chicago, for
which I will serve as Chairman for 1988-89.



JEFFERSON ECONOMIC COUNCIL

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MEMORANDUM

TO: Cathy Clontz

DATE: 4/18/89

FROM: Don Dunshae

SUBJECT: Recent Accomplishments and Development Experience

The Jefferson Economic Council is a public/private county economic development corporation created in 1955 to retain and attract industry to the county. We are located on the west side of the Denver metropolitan area, have a population of 440,000, and are home to such firms as Adolph Coors, Martin Marietta Astronautics Group, Ball Corporation, Rockwell International-Rocky Flats, COBE Laboratories and Federal Center.

We have a 12 person board of individuals from the private sector, with county commissioners, chamber of commerce executives, city economic development individuals and the president of the Colorado School of Mines serving as ex-officio members. I have enclosed copies of our accomplishment lists for the past 2 1/2 years that will give you some idea as to the type of firms we have worked to attract and retain in the county.

Prior to moving to Colorado in September 1986, I was employed by the St. Paul Port Authority as Director of Industrial Development and Assistant Executive Vice President for 15 years. This is a quasi-public corporation operating within the city of St. Paul doing development work. When I joined the Port Authority in 1971 the assets were \$60 million and at the end of 1986 they were \$786 million. This growth is the result of the financing and construction of more than 15 million square feet of industrial, commercial, office, hotels, medical and residential within the city.

Enclosed is an October 1987 story on the Port Authority which highlights many of the projects that were financed and built in the early 80's. The majority of the industrial projects were built in one of the ten industrial parks owned and developed by the Authority with the majority of the office and commercial space in downtown St. Paul.

Hopefully this provides you with some of my background accomplishments and work and look forward to seeing you on Sunday.

1987 ACCOMPLISHMENTS

CONFIDENTIAL

12/18/87

<u>NEW</u>	<u>EMPLOYMENT</u>	<u>INVESTMENT</u>
1. AMAX	25	\$ 150,000
2. Ball Aerospace	460	13,000,000
3. Ball Aerospace	430	15,000,000
4. Charter Medical	120	6,000,000
5. COBE Laboratories, Inc.	--	250,000
6. InFarmation	40	100,000
7. Interpreter, Inc.	10	1,000,000
8. Martin Marietta	3,800	55,000,000
9. Schnitzkay	27	215,000
10. Trigon	8	15,000
11. Woolrich Woolens - (Addition)	45	675,000
12. Windsor Traffic Products	25	200,000
	<u>4,990</u>	<u>91,605,000</u>
 <u>RETAINED</u>		
13. Advanced Diaplas Technology	100	660,000
14. COBE Labs	20	400,000
15. COBE Labs	20	1,800,000
16. Day Bridge Learning Center	55	17,000,000
17. Grace Chapel	6	0
18. Lakewood Brick	100	0
19. National Ski Patrol	20	1,050,000
	<u>321</u>	<u>120,910,000</u>
 Total New or Retained	<u>3,311</u>	<u>\$ 212,515,000</u>

ECONOMIC IMPACT

372 new retail firms

3,399 additional non manufacturing jobs

5,417 new families

\$100,909,000 personal income

\$ 79,665,000 in retail sales

\$ 63,732,000 additional bank deposits

\$ 13,011,950 collected in additional taxes

1988 ACCOMPLISHMENT

12/16/88

<u>NEW</u>	<u>EMPLOYMENT</u>	<u>INVESTMENT</u>
1. Ball Corporation (Westminster)	32	0
2. Broomfield Guest House (Broomfield)	15	1,040,000
3. Bureau of Reclamation (Lakewood)	200	2,500,000
4. COBE Laboratories (Lakewood)	100	0
5. Coors Ceramics (Golden)	100	5,100,000
6. Custom Molding (Arvada)	80	1,500,000
7. Electronic Data Systems (Lakewood)	150	0
8. Fred Schmidt (County)	45	500,000
9. Fred Schmidt (Lakewood)	45	500,000
10. Fred Schmidt (Westminster)	45	500,000
11. Microlithics Corp. (Golden)	45	1,000,000
12. Prototel, Inc. (County)	6	500,000
13. U.S. Bureau of the Census (Lakewood)	200	750,000
	<u>1,063</u>	<u>13,890,000</u>
<u>RETAINED/EXPANSION</u>		
11. Ampex (Golden)	85	2,000,000
12. Analytica (No. Jeffco)	20	120,000
13. Boise Cascade (Golden)	--	---
14. Columbine Systems (County)	210	4,000,000
15. Cooley Gravel (County)	50	2,200,000
16. Cooper Heat (Golden)	10	325,000
17. Emich Olds/Jeep (County)	80	5,000,000
18. End Manufacturing Co. (Golden)	0	21,000,000
19. Glasstech Solar Inc. (Arvada)	25	4,250,000
20. Leaf, Inc. (Pheat Ridge)	75	7,000,000
21. Minolta (Arvada)	150	990,000

22. Ram Line (Golden)	50	1,800,000
23. Ribbon Technology (Arvada)	25	1,000,000
24. Rockwell International (County)	0	1,825,000
25. Rodriguez Industrial Supply (Golden)	<u>2</u>	<u>40,000</u>
	782	51,550,000
Total New or Retained	1,845	\$ 65,440,000

ECONOMIC IMPACT

129 new retail firms
 1,181 additional non manufacturing jobs
 1,882 new families

 \$ 35,055,000 personal income
 \$ 27,675,000 in retail sales
 \$ 22,140,000 additional bank deposits
 \$ 4,520,250 collected in additional taxes

1989 ACCOMPLISHMENT

3/17/89

<u>NEW</u>	<u>EMPLOYMENT</u>	<u>INVESTMENT</u>
1. American Express (Lakewood)	400	\$ 1,750,000
2. Cleveland Cliffs (Golden)	50	12,000,000
3. Silverado Electra Venture	297,54 acre, mixed-use industrial park at Kipling and C-470	
Total New	450	13,750,000
	---	-----
<u>RETAINED/EXPANSION</u>		
1. Bandimere Speedway (Morrison)	5	3,200,000
2. Denver Instrument (Arvada)	17	525,000
3. Innoteck (Lakewood)	35	0
4. Securities Industry (Wheat Ridge)	<u>75</u>	<u>735,000</u>
Total Retained	122	4,460,000
	----	-----
Total New or Retained	582	\$18,210,000
	-----	-----

ECONOMIC IMPACT

41 new retail firms
 372 additional non manufacturing jobs
 594 new families

 \$ 11,058,000 personal income
 \$ 8,730,000 in retail sales
 \$ 6,984,000 additional bank deposits
 \$ 1,425,900 collected in additional taxes

S B

308

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION
February 22, 1990

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX SB
JUNEAU, ALASKA 99811-0400

The Honorable Mike Szymanski
Chairman
Senate Community & Regional Affairs Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Senator Szymanski:

At the request of your committee, I compare below the estimated increases in Public Employees' and Teachers' Retirement Systems ("PERS" and "TRS") contributions for certain municipalities and their expected increased revenue from taxes on PERS and TRS property as a result of SB 308:

	<u>Increased Contributions</u>	<u>Increased Taxes</u>
Anchorage	\$ 80,376	\$176,374
Fairbanks	21,276	21,555
Juneau	10,638	15,766
Other Municipalities	<u>92,196</u>	<u>180,305</u>
Total Municipalities	\$204,486	\$394,000

No municipality above stands to lose although Fairbanks appears to be a wash. Although other municipalities as a whole benefit, it is obvious that any municipality which does not have PERS or TRS property on its tax rolls would lose, though the amounts are undoubtedly rather minor. PERS and TRS foreclosed properties exist in -- besides the above three municipalities -- only the following:

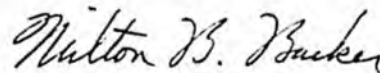
Bethel
Big Lake
Delta Junction
Dillingham
Eagle River
Glennallen
Homer
Kenai
Ketchikan
Kodiak
Palme
Sand Point
Seward
Sitka
Soldotna
Valdez
Wasilla
Whittier

The Honorable Mike Szymanski
February 22, 1990
Page 2

Several of these municipalities have only one PERS or TRS parcel and might not gain from SB 308.

Also enclosed is the requested estimation of foreclosed property disposals in the coming years.

Yours truly,



Milton B. Barker
Deputy Commissioner

MBB/ph

encls.

cc: The Honorable Drue Pearce

90-38

OTHER REAL ESTATE OWNED SOLD (OREOS)
COMBINED PERS & TRS TRUSTS

	<u>ANNUAL</u> <u>TOTAL OREOS</u>		<u>OREOS</u> <u>SOLD</u>	
FY 87	88	\$11,358,655	22	\$ 3,155,576
FY 88	144	\$18,338,681	22	\$ 2,766,937
FY 89	205	\$23,797,548	31	\$ 3,050,973
FY 90 (ESTIMATED)	205	\$23,787,548	40	\$ 4,641,440
FY 91 (ESTIMATED)	185	\$21,466,660	50	\$ 5,801,800
FY 92 (ESTIMATED)	145	\$16,825,220	60	\$ 6,962,160

Projected OREO sales will increase due to economic stability!

Annual Total OREO increase will reverse and continue with steady decline due to economic stability!

(Estimates for FY's 90, 91 and 92 are based on FY 89 average figures; \$116,036 per loan)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to taxation of certain state property by municipalities
Sponsor: Pearce
Requestor: Senate C & RA

Agency Affected: Department of Revenue
BRU: PERS & TRS
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	394.0	350.0	325.0	300.0	275.0	250.0
TOTAL OPERATING	394.0	350.0	325.0	300.0	275.0	250.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	394.0	350.0	325.0	300.0	275.0	250.0
TOTAL	394.0	350.0	325.0	300.0	275.0	250.0

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 for analysis. No fiscal impact for FY 90.
The tax on \$23.5 million of defaulted loans at an average of 17 mills would equate to approximately \$394,000. Over the years, property acquired thru foreclosure should decrease.

Prepared By: Milton B. Barker ^{MB}
Division: Treasury
Approved by Commissioner: [Signature]
Agency: Department of Revenue

Phone: 465-2350
Date: 1-31-90
Date: 2/1/90

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

Original sponsor(s): SEN. PEARCE

IN THE SENATE

BY THE C&RA COMMITTEE

CS FOR SENATE BILL NO. 308 (C&RA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to taxation of certain state and federal property by municipalities; and providing for an effective date."

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

* Section 1. AS 14.25.200(a) is amended to read:

(a) Except as provided in AS 29.45.030(a)(1), member [MEMBER] contributions and other amounts held in the system on behalf of a member or other person who is or may become eligible for benefits under the system are exempt from Alaska state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the system is void. However, a member's right to receive benefits may be assigned under a qualified domestic relations order.

* Sec. 2. AS 29.45.030(a) is amended to read:

(a) The following property is exempt from general taxation:

(1) municipal or [,] state [, OR FEDERALLY OWNED] property, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(B) notwithstanding any other provision of law,

property acquired by a political subdivision, agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law.

* Sec. 3. AS 29.45 is amended by adding a new section to read:

Sec. 29.45.295. COLLECTION OF DELINQUENT TAXES ON CERTAIN STATE OR FEDERAL PROPERTY. AS 29.45.300 - 29.45.490 do not apply to property taxable under AS 29.45.030(a)(1) or (8). A municipality may bring an action in the superior court to compel payment of property taxes due from the state or federal entity if the entity does not pay the amount due within six months after the date that the taxes are

due.

* Sec. 4. AS 39.35.500 is amended to read:

Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM. Except as provided in AS 29.45.030(a)(1), employee [EMPLOYEE] contributions and other amounts held in the system are exempt from Alaska state and local taxes. Amounts held on behalf of, or payable to, any employee or other person who is or may become eligible for benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being received by the person entitled to the amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held under the system is void. However, an employee's right to receive benefits may be assigned under a qualified domestic relations order.

* Sec. 5. AS 44.88.140(a) is amended to read:

(a) Except as provided in AS 29.45.030(a)(1), the [THE] real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and, together with any project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, and a leasehold interest created in a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project, development project, and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing

units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality, and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payments of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project, development project, or lease whether or not financed under this chapter. By January 10 of each year, the authority shall submit to the governor and the legislature a report describing the nature and extent of the tax exemption of the property, assets, income, receipts, project, development project and leasehold interests of the authority under this section.

* Sec. 6. This Act takes effect January 1, 1991.

Alaska State Legislature

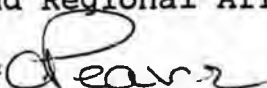
3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

MEMORANDUM

TO: Senator Mike Szymanski, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Drue Pearce 

RE: Request for Hearing - SB 308
Relating to taxation of certain state properties
by municipalities

DATE: January 16, 1990

Senate Community and Regional Affairs is the first committee of referral for Senate Bill 308, and I request that a hearing be scheduled for this bill at the earliest possible time.

Some agencies of the State are treated differently in regards to local property taxes on property obtained through default or foreclosure. For instance, Alaska Housing Finance Corporation (AHFC) pays local property taxes realizing that local services contribute to the value of their property. However, although the Public Employees Retirement System (PERS), the Teachers Retirements System (TRS), and the Alaska Industrial Development and Export Authority (AIDEA) also receive municipal services, they do not pay taxes on properties they have obtained through foreclosure because of local property tax exemptions obtained through statute.

Senate Bill 308 will correct this inequity and will give municipalities the revenue to which they are entitled for the services they supply.

Passage of this legislation is supported by the Municipality of Anchorage and the Alaska Municipal League.

If you have questions, Jo Fenety of my staff is the contact on this bill.

DP:jf

Alaska State Legislature

Al Adams
District L

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

Official Business

February 17, 1990

Senator Mike Szymanski, Chairman
Senate Community and Regional Affairs Committee
Post Office Box V
Juneau, Alaska 99811

Dear Mike:

Unfortunately I could not be present for the last C&RA meeting when Senate Bill 308 was brought up for discussion. I understand a working group has been formed to look at the bill. This letter is food for thought on various matters surrounding this legislation.

My first reaction to seeing the bill was a normal one of district protection. As such, I supported the amendment that would remove AIDEA's holdings at the Red Dog Mine from taxation. The implications of the unamended version stepped forth quickly and there was sufficient support for excluding AIDEA's Red Dog interests.

Beyond those personal concerns, the bill raises state policy questions that warrant thorough consideration. It appears to me that what is being proposed in the bill runs against a principle of taxation restraints guarded in our Constitution. Article IX, Section 4 states, "The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exemptions which may be provided by law."

It was in no way surprising that the Mat-Su Borough entered the picture when the bill was being brought up- there are considerable property holdings by the state in Palmer that could be justifiably added if this bill is endorsed. In addition, there are other agricultural property holdings that could easily be justified for inclusion. Nonetheless, there are even deeper issues here.

Page 2
February 17, 1990
Senator Mike Szymanski

It will be state dollars used to pay taxes to certain municipalities which have both the taxing ability and these holdings in their boundaries. As such, the bill sets up a form of revenue sharing for certain municipalities over others. It also leaves less money for other purposes.

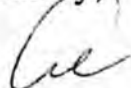
Once we start this train going, where does it stop? Should we allow municipalities to tax property investments of the Alaska Permanent Fund? Should they be allowed to tax state office buildings and court buildings within their city limits? On what basis can we say "yes" to one and not the other? The only argument I've seen is that the cities provide support services to these buildings, yet they do the same with all the other property held or owned by the state that sits in their boundaries.

Even if we say with this bill that it can go just this far and no further, what property is being held with the PERS and TERS investments? What amount of money in taxes does this mean for PERS and TERS?

I truly do support municipalities using what ever means are legal and acceptable to their citizens to raise revenues. I am very concerned that unless we address some of the issues brought forth here, that we are setting a precedent that may be difficult to justify or control in the future.

I wish the working group success in answering these questions.

Sincerely,



Senator Al Adams

cc: Senator Drue Pearce

Alaska State Legislature


3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce District G

SPONSOR'S STATEMENT

TO: Senator Mike Szymanski, Chairman
All Members of the Senate Community and Regional
Affairs Committee

FROM: Senator Drue Pearce 

RE: Senate Bill 308
Relating to taxation of certain state properties
by municipalities

DATE: February 15, 1990

Some agencies of the State are treated different from others in regards to local property taxes on property obtained through default or foreclosure. For instance, Alaska Housing Finance Corporation (AHFC) pays local property taxes realizing that local services contribute to the value of their property. However, although the Public Employees Retirement System (PERS), the Teachers Retirement System (TRS), and the Alaska Industrial Development and Export Authority (AIDEA) also receive municipal services, they do not pay taxes on properties they have obtained through foreclosure because of local property tax exemptions obtained through statute.

Senate Bill 308 will correct this inequity and will give municipalities the revenue to which they are entitled for the services they supply.

Passage of this legislation is supported by the Alaska Municipal League and the Municipality of Anchorage.

DP:jf

SB 308
Amendment by Pearce
2/15/90

Beginning on page 1, line 29:

"(B) interests in real property held as investments by the teachers' retirement system of Alaska under AS 14.25 or the public employees' retirement system of Alaska under AS 39.35, and interests acquired through foreclosure or accepted through a deed in lieu of foreclosure by the Alaska Industrial Development Authority under AS 44.88 are taxable as provided in AS 29.45.010 - 29.45.600;"



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Commerce and Economic Development	DIVISION A I D E A	BILL NUMBER SB 308	SPONSOR Pearce
SHORT TITLE OF BILL An Act relating to taxation of certain state property by municipalities			
DEPARTMENT POSITION Opposed			
PREPARED BY Bertram L. Wagon, AIDEA <i>BWagon</i>	DATE 1/22/90	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Revenue (PERS & TERS)	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL Municipalities and local Governments	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The intent of this bill is to place all real property of the Authority onto the tax rolls of the municipality within which it is located. Current law exempts property of the Authority from taxation. This bill would make such property taxable.

ANALYSIS OF BILL/PROGRAM EFFECTS

Makes all real property of the Authority subject to real property taxes effective January 1, 1990. Those properties that were once loans and through default have since become other real estate owned, would result in a tax bill of approximately \$400,000 utilizing a 15 mill levy.

The DeLong Mountain Transportation System would be taxable under this legislation and utilizing a value of \$150 million for the road and port at 4 mills (.004) would equate to a tax bill of \$600,000.

The retroactive date of January 1, 1990 would create a tax bill for calendar 1990.

AMENDMENTS PROPOSED

It is recommended that those projects that the Authority owns and operates with no intent to sell (Red Dog, Dock project at Unalaska, et.al.), be excluded from any form of taxation. Properties acquired through foreclosure on defaulted loans would be taxable to the respective municipality. The retroactive effective date be deleted and replaced with a January 1, 1991 date.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

MUNICIPALITY OF ANCHORAGE 1989 LEGISLATIVE PROGRAM

TITLE: Tax Liability for Certain State Agency Properties A.S.
14.25.200, A.S. 39.35.500 and A.S. 44.61.140

SPECIAL LEGISLATIVE REQUEST:

Amend these statutes by adding and deleting as indicated:

A.S. 14.25.200. "Exemptions from taxation and process. Teachers retirement salaries and other amounts held in the retirement fund on behalf of the teachers are exempt from State and Municipal taxes, except for property owned in fee by the fund for investment purposes or acquired through holding of security interests, and are not subject..."

A.S. 39.35.500. "Non-alienation of amounts held by the system. Employee contributions and other amounts held in the pension fund are exempt from State and local taxes, except for property owned in fee by the fund for investment purposes or acquired through holding of security interests. Except with respect to ... An attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held under the system except as mentioned in this section, is void.

A.S. 44.61.140. Exemption from taxation. (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the State and [, together with any project financed under this chapter and a leasehold interest created in a project occupant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the State or a political subdivision of the State, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units.] shall be exempt from real and personal property taxes, except for property owned in fee by the authority for investment purposes or acquired through the holding of security interests.

BACKGROUND/JUSTIFICATION:

Agencies of the State and Federal government are treated differently in regards to local property taxes obtained through default or foreclosure. AHFC and HUD are two agencies that commit through regulation or legislation to pay local property tax in realization that local services contribute to the value of their property. The Farmers Home Administration, Public Employees Retirement System, the Teachers Retirement System and the Alaska Industrial Development Authority are also government agency investors who obtain property through default, but do not pay local property tax claiming exemption through the above mentioned statutes and A.S. 29.45.030 (a)1.

STAFF CONTACT: Bob Nelson, Chief Fiscal Officer, 343-6610



FISCAL NOTE

REQUEST:

Revision Date: _____ Title: <u>An Act relating to taxation of certain state property by municipalities</u> Sponsor: <u>Pearce</u> Requestor: <u>Senate C & RA</u>	Dept. of Commerce Agency Affected: <u>& Economic Development</u> BRU: <u>AK Industrial Development and Export Authority</u> Components: _____
--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0
TOTAL OPERATING	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0
TOTAL	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.

The tax on \$27 million of defaulted loans at an average of 15 mills would equate to approximately \$400,000. The DeLong Mtns. Transportation Project at \$150 million at 4 mills would equate to approximately \$600,000. Over the years, property acquired thru foreclosure should decrease while development projects (Red Dog, Dutch Harbor, et.al.) should increase.

Prepared by: Bertram L. Wagnon, AIDEA Phone: (907) 561-8050
 Division: A I D E A Date: _____

Approved by Commissioner: [Signature] Date: 25/1/90
 Agency: Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impact/d Agency(ies)

ADDENDUM TO FISCAL NOTE FOR SR 308

LOCAL GOVERNMENT	# PROPERTIES	ASSESSED VALUE	AIDEA PAYMENT (Excluding Bank owned portion)
Municipality of Anchorage	39	\$17,434,400	\$292,001
Fairbanks North Star Borough	6	2,088,620	32,392
Kenai Peninsula Borough	5	2,602,900	27,418
Matanuska Susitna Borough	7	2,148,800	26,592
City & Borough of Juneau	2	565,000	6,905
City & Borough of Sitka	1	825,730	3,606
City of Valdez	1	817,400	12,220
North Slope Borough	<u>1</u>	<u>482,900</u>	<u>8,871</u>
TOTAL	62	\$26,965,750	\$410,005

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. PEARCE

TO: SB 308

Page 1, line 6, after "state":

Insert "and federal"

Page 1, line 11:

Delete "AS 29.45.030(a)"

Insert "AS 29.45.030(a)(1)"

Page 1, line 25, after "municipal":

Delete ","

Insert "or [,]"

Delete ", or federally owned"

Insert "[, OR FEDERALLY OWNED]"

Page 1, line 29, through page 2, line 5:

Delete all material and insert:

"(B) notwithstanding any other provision of law, prop-
erty acquired by a political subdivision, agency, corporation, or
other entity of the state through foreclosure or deed in lieu of
foreclosure and retained as an investment of a state entity is
taxable;"

Page 2, line 20, after "amended":

Insert ";

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law"

Page 2, line 22, after "STATE":

Insert "OR FEDERAL PROPERTY."

Page 2, lines 23 - 29:

Delete all material.

Insert "AS 29.45.300 - 29.45.490 do not apply to property taxable under AS 29.45.030(a)(1) or (8). A municipality may bring an action in the superior court to compel payment of property taxes due from the state or federal entity"

Page 3, line 1:

Delete "of this section,"

Delete "state"

Page 3, line 5:

Delete "AS 29.45.030(a)"

Insert "AS 29.45.030(a)(1)"

Page 3, line 18:

Delete "AS 29.45.030(a)"

Insert "AS 29.45.030(a)(1)"



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9642

ASSESSMENT DEPARTMENT

February 14, 1990

Senate Community & Regional Affairs Committee
Senators Szymanski, Frank, Pearce, Pouchot and Adams
Mail Stop 2100
Juneau, AK 99811

RE: SB 308

Dear Senators:

I am writing this letter in support of SB 308 authorizing taxation of properties held by state and federal agencies as a consequence of the grantee's default on an obligation such as a promissory note or deed of trust. The Alaska Municipal League's 1990 Policy Statement, Section 8, Page 10, provides as follows:

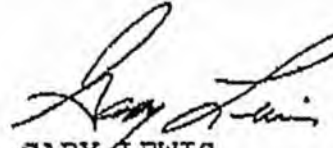
Tax Liability for Certain State or Federal Agency Properties: The League supports legislation to require payment of property taxes by state or federal agencies for real property owned by the agency for investment purposes or acquired through holding of security interests.

The underlying rationale for the AML's policy position is that properties purchased by a private person or entity secured though the assets of a state or federal agency, even after the property reverts to the agency due to a default on the underlying obligation, continue to receive municipal services. The state or federal agencies, therefore, should continue to bear their share of the burden for funding the municipal services which benefit the property. State agencies that may succeed in interest to a defaulted property are the Public Employees' Retirement System, the Teachers' Retirement System, the Alaska Industrial Development and Export Authority Agency, the Alaska Permanent Fund, the Agricultural Revolving Loan Fund; Federal agencies include the Farm Home Administration and the Small Business Administration. Of course, the list is not all inclusive, and other agencies may be successors-in-interest to defaulted property. This is not to say that all properties held by state agencies should be taxable. For example, most public property conveyed pursuant to public land disposal programs which reverts back to the agencies due to the grantee's or contract purchaser's default should not be taxable.

I have also attached to this letter a proposed amendment for inclusion in SB 308, which clarifies existing law regarding the taxation of property reverting to federal or state agencies. The impetus for this amendment to SB 308 is due to a state-wide problem involving the taxability of Farmers Home Administration property. Late last year the Farmers Home Administration took the position that property reconveyed to it subsequent to the default of the private purchaser was exempt from taxation, notwithstanding the waiver of sovereign immunity contained in 42 U.S.C. 1640(H). Subsection C related to the taxation of federally-held properties as authorized by federal statutes eliminates the legal argument under existing law that such property is exempt from taxation. Section 2(a)(C) is typical of provisions in statute of other states.

I will be in Juneau on February 28 and March 1, 1990 and will be available to discuss this matter should the committee conclude such an approach to be advisable. I remain available should you have any questions and will be available at the Legislative teleconference held on SB 308 held at 3:30 on February 15, 1990.

Sincerely,
MATANUSKA-SUSITNA BOROUGH



GARY LEWIS
Borough Assessor

Encs.

cc: Scott Burgess, AML
.Mike Worley, DCRA
Steve VanSant, Anchorage
Mary Keller, Anchorage

MG:sah

12\021490-3

SUGGESTED AMENDMENTS TO SB 308

Page 1

Line 6 For an Act entitled "An Act Relating to Taxation of Certain State and Federal Property by Municipalities; and Providing for an Effective Date."

Page 1

Line 11 (a) Except as provided in AS 29.45.030 (a) (1)

Page 1

Line 23 *Sec. 2. AS 29.45.030 (a) is amended to read:

(a) the following property is exempt from general taxation:

(1) Municipal, State, or Federally owned property, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of that interest;

(B) property held by state or federal entities as the result of foreclosure or accepted through a deed in lieu of foreclosure and not used or occupied for administrative purposes by an exempt entity shall be taxable.

(C) property of the United States, its agencies or instrumentalities is exempt from taxation only to the extent that taxation thereof is forbidden by federal law.

Page 2

Line 22 *Sec. 3. AS 29.45.295 Collection of Delinquent Taxes on certain State and Federal property.

Property taxable under AS 29.45.030 (a) (1) (B) is exempt from provisions of AS 29.45.300 - 29.45.480.

A municipality may bring action in an appropriate court to compel payment of property taxes, including penalties, collection costs and interest due from a state or federal agency if the agency is delinquent in payment after the date that the taxes are due.

Page 3

Line 5 Except as provided in AS 29.45.030 (a) (1)

Page 3

Line 18 Except as provided in AS 29.45.030 (a) (1)

ALASKA ASSOCIATION OF ASSESSING OFFICERS

February 23, 1990

Senate Community and Regional Affairs Committee
Senators Symanski, Frank, Pearce, Porchot and Adams
Mail Stop 2100
Juneau, Alaska 99811

RE: Alaska Association of Assessing Officers Position on
SB 308 - Taxation of Certain State Agencies

Dear Senators:

The purpose of this letter is to clarify to the Committee why the Alaska Association of Assessing Officers and several municipalities have taken a supportive position on SB 308. We do believe, however, that the bill as introduced, does not accurately reflect the intent of our Association or the AML Policy Statement and should be amended. We will offer an amendment in this letter.

This legislation was requested due to the fact that there are millions of dollars of assessed values being removed from assessment rolls across the State by certain government agencies which have foreclosed on property in which they have a security interest. Some of the State agencies are exempted by the statutes which created the agency, while others, like Alaska Housing Finance Corporation, are required to pay taxes.

There are three agencies which constitute the majority of the property described above: Alaska Industrial Development and Export Authority (AIDEA), Public Employees Retirement System (PERS), and the Teachers Retirement System (TRS). These agencies participate in the financing of commercial properties and when a foreclosure occurs, the agencies are listed on the documents as owner and consequently, are automatically exempted.

In many cases, the properties are leased and the agencies collect the rents. The rents obtained by the agency should approximate market rents, which will have a built in factor for taxes. If the agency rents at below market rents, they have an unfair advantage over the private sector in that they are not responsible for payment of property taxes. This creates an inequity not only for the private sector which competes with the agencies, but also shifts the tax burden away from these properties while they receive the same services they did while in private ownership.

We realize that not all properties owned by these agencies may be rented or if so, may not command a positive cash flow, however, they are

competing with the private sector, receiving comparable services and yet still maintain a distinct advantage over comparable property within the same jurisdiction.

We have recently encountered a situation whereby certain federal agencies, which are taxable pursuant to federal law, insist that they are exempted by our own state statutes. AS 29.45.030(a) (1) states:

"29.45.030. Required exemptions. (a)The following property is exempt from general taxation:

- (1) municipal, state, or federally owned property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest."

This language seems to exempt all federal property regardless of any permissive taxing language which may be contained in federal law. We believe that by changing the current statute to allow for taxation of these properties, if permissive federal law exists, this problem will be solved. Currently, several large federal agencies, such as FDIC, FSLIC, HUD and VA, pay municipalities taxes for property which they have taken title to under a foreclosure proceeding. Farmers Home Administration has chosen not to make tax payments, citing as part of their argument, AS 29.45.030(a) (1).

Therefore, we request that the committee recommend passage of SB 308 with the following amendments:

Page 1

Line 6 - For an Act entitled: "An Act relating to taxation of certain state and federal properties by municipalities; and providing for an effective date."

Page 1

Line 11 - Except as provided in AS 29.45.030(a) (1),

Page 1

Line 23 - *Sec. 2. AS 29.45.030(a) is amended to read:

- (a) The following property is exempt from general taxation:
 - (1) municipal, state, or federally owned property,

except that

- (A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

real (B) property held by state entities as a result of foreclosure or ^{acquired} accepted through a deed in lieu of foreclosure and not used for administrative purposes by an exempt entity shall be taxable to the extent provided in other provisions of law.

* (C) property of the United States, its agencies, or instrumentalities is exempt from taxation only to the extent that taxation thereof is forbidden by federal law.

Page 2

Line 22 - Sec. 29.45.295 Collection of Delinquent Taxes on Certain State and Federal Property.

(a) Property taxable under AS 29.45.030 (a) (1) (B) and (C) is exempt from provisions of AS 29.45.300 through 29.45.480.

(b) A municipality may bring action in the superior court to compel payment of property taxes, including penalties, collection costs, and interest due from a state or federal agency if the agency is delinquent in payment after the date that the taxes are due.

Page 3

Line 5 - Except as provided in AS 29.45.030(a) (1)

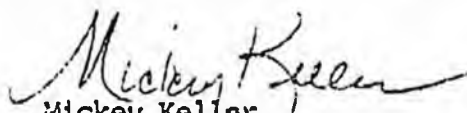
Page 3

Line 18 - Except as provided in AS 29.45.030(a) (1)

We would like to express our appreciation to each member of this Committee for the dedication shown in attempting to cure the inequities found in our tax laws. We remain available to you for questions and hope that you will take advantage of the vast amount of information and expertise which exist within our Association.

Sincerely,

ALASKA ASSOCIATION OF ASSESSING OFFICERS


Mickey Keller
President

Steve Van Sant
Vice President

Alaska MUNICIPAL League


TELEPHONE
(907) 586-1325
FAX 463-5 180

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

February 15, 1990

MEMORANDUM

TO: Senator Mike Szymanski, Chairman
Members of the Senate Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 308 - Taxation of Certain State Property by Municipalities

The Alaska Municipal League supports SB 308 but requests that the sponsor and the Committee consider amendments to broaden and clarify the effects of the legislation. I have attached an excerpt from the AML's 1990 Municipal Platform which provides a justification for why certain property of the state and federal government and their agencies should not be exempt from property taxation by municipalities.

As to amendments, the Alaska Municipal League supports amendments which properly and adequately compensate local governments through tax revenues for municipal services which help protect and maintain the value of state and federal investment property owned as a result of foreclosure.

I am aware that an amendment will be offered by the sponsor (attached) to clarify the types of interests held by PERS, TRS and AIDA which are subject to taxation. The AML supports the amendment to the extent that it clarifies the types of property of those agencies which are taxable, e.g. it would exclude the Red Dog Mine road financed by AIDA in the Northwest Arctic Borough). It has been brought to my attention however that the amendment does not go far enough to cover all property and public entities. In the second part of the amendment which refers to "interests acquired through foreclosure by the Alaska Industrial Development Authority," property acquired by PERS and TRS through foreclosure should also be included.

An issue has been raised that several federal agencies question the taxation of their properties unless the authority is specifically granted by state statute. A suggested amendment to clarify this authority is attached. AML supports this amendment and suggests that the title of the bill be changed to include "... certain state and federal properties..."

Finally, the issue has been raised that all property of state and federal government or their agencies be taxable if 1) they are held as investments; 2) are the result of foreclosure or accepted through a deed in lieu of foreclosure; 3) not used or occupied for administrative purposes; or 4) not

Senate C&RA Committee re: SB 308
February 15, 1990
Page 2

specifically exempt by state or federal law.

I have attached a copy of a letter to the Committee from Gary Lewis, Borough Assessor, Matanuska-Susitna Borough, which suggests language for the Committee's consideration on several of the issues outlined above and others. Mr. Lewis is also a member of the AML Legislative Committee. I understand that several municipal officials, including Mr. Lewis will be available on teleconference to provide expert testimony.

Again, the AML supports SB 308 but requests several amendments to broaden its application to all appropriate property of state and federal agencies. Thank you.

cc: Senator Pearce
Mike Worley
Gary Lewis

Enclosures

sab1:sb308tax

The Alaska Municipal League supports legislation to require payment of local property taxes by state and federal agencies for real and personal property owned by the agency for investment purposes or acquired through holding of security interests.

The various agencies of the State and the federal government are treated differently with regard to local property tax on property obtained through default or foreclosure. The Alaska Housing Finance Corporation and the Department of Housing and Urban Development are two agencies that have made a commitment, through regulation or legislation, to pay local property taxes in recognition of the fact that local services contribute to the value of their property.

On the other hand, other government agency investors that obtain property through default, such as the Farmers Home Administration, Public Employees Retirement System, Teachers Retirement System, and Alaska Industrial Development and Export Agency, do not pay local property taxes, claiming exemption under the provisions of AS 29.45.031(a)1. Local governments are required to provide services such as roads, utilities, and police and fire protection, services that help protect and maintain the value of resale property owned by these agencies, and the agencies have an obligation to support these services as a cost of owning investment property.

SB 308 Page 2, after line 5,

Add: (C) property of the United States, its agencies or instrumentalities is exempt from taxation only to the extent that taxation thereof is forbidden by federal law.



Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645-1608 • PHONE 745-9642

ASSESSMENT DEPARTMENT

February 14, 1990

Senate Community & Regional Affairs Committee
Senators Szymanski, Frank, Pearce, Fourchot and Adams
Mail Stop 2100
Juneau, AK 99811

RE: SB 308

Dear Senators:

I am writing this letter in support of SB 308 authorizing taxation of properties held by state and federal agencies as a consequence of the grantee's default on an obligation such as a promissory note or deed of trust. The Alaska Municipal League's 1990 Policy Statement, Section 5, Page 10, provides as follows:

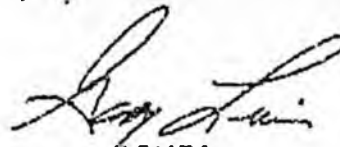
Tax Liability for Certain State or Federal Agency Properties: The League supports legislation to require payment of property taxes by state or federal agencies for real property owned by the agency for investment purposes or acquired through holding of security interests.

The underlying rationale for the AML's policy position is that properties purchased by a private person or entity secured though the assets of a state or federal agency, even after the property reverts to the agency due to a default on the underlying obligation, continue to receive municipal services. The state or federal agencies, therefore, should continue to bear their share of the burden for funding the municipal services which benefit the property. State agencies that may succeed in interest to a defaulted property are the Public Employees' Retirement System, the Teachers' Retirement System, the Alaska Industrial Development and Export Authority Agency, the Alaska Permanent Fund, the Agricultural Revolving Loan Fund; Federal agencies include the Farm Home Administration and the Small Business Administration. Of course, the list is not all inclusive, and other agencies may be successors-in-interest to defaulted property. This is not to say that all properties held by state agencies should be taxable. For example, most public property conveyed pursuant to public land disposal programs which reverts back to the agencies due to the grantee's or contract purchaser's default should not be taxable.

I have also attached to this letter a proposed amendment for inclusion in SB 308, which clarifies existing law regarding the taxation of property reverting to federal or state agencies. The impetus for this amendment to SB 308 is due to a state-wide problem involving the taxability of Farmers Home Administration property. Late last year the Farmers Home Administration took the position that property reconveyed to it subsequent to the default of the private purchaser was exempt from taxation, notwithstanding the waiver of sovereign immunity contained in 42 U.S.C. 1540(H). Subsection C related to the taxation of federally-held properties as authorized by federal statutes eliminates the legal argument under existing law that such property is exempt from taxation. Section 2(a)(C) is typical of provisions in statute of other states.

I will be in Juneau on February 28 and March 1, 1990 and will be available to discuss this matter should the committee conclude such an approach to be advisable. I remain available should you have any questions and will be available at the Legislative teleconference held on SB 308 held at 3:30 on February 15, 1990.

Sincerely,
MATANUSKA-SUSITNA BOROUGH



GARY LEWIS
Borough Assessor

Encs.

cc: Scott Burgess, AML
Mike Worley, DCRA
Steve VanSant, Anchorage
Mary Keller, Anchorage

MG:sah

12\021490-3

SUGGESTED AMENDMENTS TO SS 308

Page 1

Line 6 For an Act entitled "An Act Relating to Taxation of Certain State and Federal Property by Municipalities and Providing an Effective Date."

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Page 3

Line 5 Except as provided in AS29.45.030(a) (1)

Page 3

Line 18 Except as provided in AS29.45.030(a) (1)

Contact: Gary A. Lewis, Assessor
Matanuska-Susitna Borough

RECEIVED

MAR 9 1990



231 W. EVERGREEN AVE.
PALMER, ALASKA 99645



Phone (907) 745-3271

A HOME RULE CITY

March 6, 1990

The Honorable Mike Szymanski
Senator
State of Alaska
Box V
Juneau, Alaska 99811

RE: Senate Bill 308
Taxation of Certain State Properties

Dear Senator Szymanski,

The City of Palmer is in favor of Senate Bill No. 308, "An Act Relating to the Taxation of Certain State Property by Municipalities."

With the widespread number of vacant properties in the City of Palmer as a result of the economic downturn in 1985, we have been hit extremely hard by the number of properties which are tax-exempt probably more than most communities.

Senate Bill 308 would provide the City of Palmer with some relief by taxing vacant property owned by the various retirement systems as well as the Alaska Industrial Development Authority.

This bill would eliminate the turning on and turning off of the taxation effort when a property becomes vacant even though it is owned by a quasi-public agency. In the real world, you still pay taxes on property whether it is occupied or not and if it is your domicile or income property.

Being a government center has a natural built-in number of exempt properties which do not contribute to the local tax effort. The investment by the various state agencies such as TRS, PERS, and AIDA was for monetary gain and not charity. Therefore, if they enjoy riches, they should also share the spoils.

The Honorable Mike Szymanski
March 6, 1990

We urge your support of Senate Bill 308 which would require TRS, PERS and AIDA to pay their fair share of the property taxes in both the good times and lean times.

Should you have any questions, please feel free to contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Scott Burgess, AML
Mayor Carte'



231 W. EVERGREEN AVE.
PALMER, ALASKA 99645

CITY OF PALMER



A HOME RULE CITY



Phone (907) 745-3271

March 6, 1990

The Honorable Jim Duncan
Senator
State of Alaska
Box V
Juneau, Alaska 99811

RE: Senate Bill No. 483
An Act Relating to Golf Carts

Dear Senator Duncan,

After reading Senate Bill No. 483, "An Act Relating to Golf Carts," the City of Palmer is opposed to such legislation.

The advent of the all-terrain vehicle has played havoc not only for the City of Palmer but areas throughout the State. The ATVs are operated by both under-age people as well as adults who have a disregard for public and private property.

In the licensing of golf carts, this will send a message to the owners that a vehicle of this type can be operated anywhere since they have paid the registration fee. Granted that a golf cart has built in safety measures but we would be naive to assume that these mechanisms would remain unaltered.

The ATVs have created a lot of suffering for many families not only in Alaska but throughout the entire United States. As I see Senate Bill 483, we are offering one more mode of transportation which can inflict hurt unnecessarily upon our fellow citizens. Golf carts were designed and intended to be used on a golf course, not on the public streets or rights-of-way.

The City of Palmer is opposed to Senate Bill No. 483.

The Honorable Jim Duncan
March 6, 1990

As a final note, the City has received inquiries as to whether or not we would be interested in procuring the golf carts now located in Juneau for use on our new golf course.

Should you have any questions, please feel free to contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Senator Kerttula
Senator Szymanski
Representative Menard
Representative Larson
Mayor Carte'
Alaska Municipal League

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 308
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to taxation of certain state property by municipalities
 Sponsor: Pearce
 Requestor: Senate C & RA

Dept. of Commerce
 Agency Affected: & Economic Development
 BRU: Alaska Industrial Development and Export Authority
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.
 The tax on \$27 million of defaulted loans at an average of 15 mills would equate to approximately \$400,000.00. Over the years, property acquired through foreclosures should decrease while the value of property will increase. No property owned by the Authority under its development program are included (DeLong Mountain) as SB 308 as amended would not put them on the tax rolls.

Prepared by: Bertram L. Wagnon, AIDEA Phone: (907) 561-8050
 Division: A I D E A Date: _____

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

RETURN TO FISCAL NOTE FOR 1989

LOCAL GOVERNMENT	# PROPERTIES	ASSESSED VALUE	AIDEA PAYMENT (Excluding Bank owned portion)
Municipality of Anchorage	39	\$17,434,400	\$292,001
Fairbanks North Star Borough	6	2,088,620	32,392
Kenai Peninsula Borough	5	2,602,900	27,418
Matanuska Susitna Borough	7	2,148,800	26,592
City & Borough of Juneau	2	565,000	6,905
City & Borough of Sitka	1	825,730	3,606
City of Valdez	1	817,400	12,220
North Slope Borough	1	900	8,871
TOTAL	62	23,382,850	\$410,003

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to taxation of BRU: Alaska Industrial Development &
certain state property by municipalities Export Authority
 Sponsor: Pearce Components: _____
 Requestor: Senate C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.

SEE ATTACHED

Prepared by: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050
 Division: Alaska Industrial Development & Export Authority 4/6/90

Approved by Commissioner: Larry Mercutreff Date: 4/6/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

**ANALYSIS
CSSB 308 (C&RA)**

The tax on \$27 million of defaulted loans at an average of 15 mills would equate to approximately \$400,000. Over the years, property acquired through foreclosures should decrease while the value of property will increase. No property owned by the authority under its development program is included (DeLong Mountain) as CSSB 308 (C&RA) would not put them on the tax rolls.

<u>LOCAL GOVERNMENT</u>	<u>NUMBER OF PROPERTIES</u>	<u>ASSESSED VALUE</u>	<u>AIDEA PAYMENT (Excluding Bank Owned Portion)</u>
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North Slope Borough	<u>1</u>	<u>482,900</u>	<u>8,871</u>
Total	<u>62</u>	<u>\$26,965,750</u>	<u>\$410,005</u>

S B

329

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

March 27, 1990

The Honorable Mike Szymanski
Alaska State Senator
P.O. Box V
Juneau, Alaska 99811

Dear Senator Szymanski:

Subject: SB 329, Addition of Powder Island to Kachemak Bay State Park

Background: SB 329 would add Powder Island in Seldovia Bay to Kachemak Bay State Park. Powder Island consists of 11.9 acres located on the east side of Seldovia Bay about 3/4 mile south of the Seldovia small boat harbor. The island is one of two tracts of public land on Seldovia Bay, the other being Outside Beach north of Seldovia.

Powder Island consists of three wooded knolls with primarily steep rocky shorelines, separated by two low grassy areas with sandy beaches. There are two unauthorized cabins on the island. The island is included in the pool of state land identified for possible trade to the Seldovia Native Association (SNA) in order to acquire SNA's land in Kachemak Bay State Park. A 1989 appraisal valued the island at \$165,000.

Position: At this time there is an existing written agreement with SNA which requires us to keep this parcel available for possible exchange. There will soon be a legislative proposal to acquire SNA's land in Kachemak Bay State Park via purchase at fair market value, in which case this parcel would not be needed for the exchange. However, until the future of the SNA land trade is decided, DNR has a Preliminary Exchange Agreement that reserves this land for possible exchange. Powder Island is one of the parcels of state land that is of greatest interest to SNA.

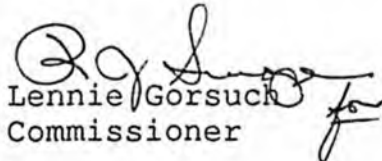
Senator Mike Szymanski

-2-

March 27, 1990

If included in a land exchange with SNA, DNR proposes to retain a one acre public use easement on the island.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Committee Members
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land and Water Management
Neil Johannsen, Director
Division of Parks and Outdoor Recreation

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: SB 329 Addition of Powder
Island
 Sponsor: Szymanski
 Requestor: Senate C&RA

Agency Affected: Department of Natural Resources
 BRU: Parks Management
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)


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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lawrence Z. Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 3/27/90

Approved by Commissioner:  Date: 3/27/90
 Agency: Department of Natural Resources

Distribution (by preparer):

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

JUNE 30, 1989

ATTACHMENT B

SELDOVIA NATIVE ASSOCIATION / STATE OF ALASKA
LAND EXCHANGE ADL 224612

POWDER ISLAND IN SELDOVIA BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
---------------	--------------	---------------------

No. 1	T9S, R14W, SM SEC 6: LOT 4	11.9
-------	----------------------------	------

- One acre public use site easement (for day use only) to be reserved on the nob at the west end of the island, along with the beach between this nob and the larger nob to the east.

FORMER PLO 316 - JAKOLOF BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
---------------	--------------	---------------------

No. 1	T8S, R13W, SM: A PORTION OF TRACT "A" WITHIN SECS. 20, 29 AND 30 DESCRIBED BY METES AND BOUNDS IN PLO 316. PARCEL APPROX. 2640' x 5280' FRONTING ON JAKOLOF BAY; ACQUIRED UNDER MENTAL HEALTH GRANT MH-128.	320
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- ADL 39029 - Letter of non-objection to public utility right-of-way fifty (50') feet in width for existing power line constructed by Homer Electric Association, Inc.
- ADL 37929 - Letter permit for a public access road right-of-way 200 feet in width along existing roadway from Seldovia to Jakolof Bay through subject parcel.
- ADL 39789 - Letter permit issued for an access road 100 feet in width (Alaska Project No. S-1190)
- ADL 224138- Upland lease authorization (lease application) for approximately 0.25 acres at the end of Jakolof Bay airstrip to support mariculture activities associated with Tideland Use Permit ADL 224137 (Southcentral Region Finding and Decision dated October 31, 1988).

Subject to valid existing rights (airstrip identified on state tidelands adjacent to parcel) and subject to a public use easement under AS 38.05.127.

- ATTACHMENT B -



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4978

Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617
or
165 E. Parks Highway
Wasilla, Alaska 99687
(907) 376-6453

SPONSOR STATEMENT

Last year, the Department of Natural Resources began working on a land exchange to trade state lands for parcels held by the Seldovia Native Association within Kachemak Bay State Park. When DNR presented its proposal to SNA, Powder Island was included in the proposed package of state lands to be traded. At that time, I introduced Senate Bill 329 as a measure to add Powder Island to Kachemak Bay State Park and preserve the island for public access and use. Currently, the land trade negotiations are stalled and a new plan to purchase SNA's lands within Kachemak Bay State Park is being developed by the Administration. Since a land purchase arrangement would remove Powder Island from the bargaining table, I would like to see Powder Island kept in the public domain.

In reviewing the attached map, it is obvious that the only remaining public land within Seldovia Bay is Powder Island. Seldovia Bay is an extremely popular and well utilized recreational boating area which provides sheltered moorage that is not available anywhere else in the surrounding area. Relinquishing this public land to the Seldovia Native Association, the major land holder in Seldovia Bay, or to any other private entity, will preclude public access and recreational usage of Seldovia Bay. Of course, the tidelands are available for public use, but they are not particularly appropriate or convenient for camping, picnicking or hiking.

I feel that it is not in the public's best interest to eliminate Seldovia Bay as a public recreational use area. While we cannot reverse past land decisions, we can certainly retain state ownership of the last remaining parcel of public land by including it in the Kachemak Bay State Park system.

Senate District E

Mat-Su Borough • So Anchorage • Bird/Indian • Girwood • Nikiski • Copper Landing • Hope • Seward • Prince William Sound

MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name Mary McBurney	Dept./Div./Sect. Alaska Senate - Sen Szumanski's Office	Mall Stop
FROM:	Name Dick Mylitis	Dept./Div./Sect. Natural Resources Land & Water	Phone 762-2660
SUBJ:	Seldovia Land Exchange - Powder Island		RECEIVED January 16, 1990 JAN 19 1990

Enclosed is the map you requested that shows land ownership in Seldovia Bay. Also enclosed is an excerpt from the land conveyance to Seldovia Native Association that describes the trail and site easements reserved at the south end of the bay. The third enclosure is from the preliminary land exchange agreement signed by DNR and SNA, describing the proposed easement we would reserve on Powder Island.

3. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688; 43 U.S.C. 1601-1624;
4. The public easements designated pursuant to section 17(b)(3) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 708; 43 U.S.C. 1616(b)(3), upon the conditions of use prescribed by 43 CFR 2650.4-7, and identified as follows:
 - a. A 25-foot trail easement for the existing trail from the village of Seldovia to Seldovia Lake. Also included are spur trails to the coastline easement and the campsite (D9-28) at the mouth of the Seldovia River and two proposed spur trails to provide access to public lands. Subject easements (P-4, S-3) are described in easement case file AA-9791.
 - b. An easement of 1 acre (approximately 200 feet by 200 feet) for a campsite near the mouth of the Seldovia River, and a 25-foot easement for a trail from the campsite southwesterly to the public lands in T. 9 S., R. 14 W., Seward Meridian, section 19. Subject easements (D9-28, S-8) are described in easement case file AA-9791.
 - c. A 25-foot continuous linear coastline easement from mean high tide along the entire selection.

THE GRANT OF THE ABOVE-DESCRIBED LAND IS SUBJECT TO:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act, 72 Stat. 339, 341) contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;
3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1613(c), that the grantee hereunder convey those portions of land hereinafter granted, as are prescribed in said section.

Interim Conveyance No. 016

Date OCT 17 1975

JUNE 30, 1989

ATTACHMENT B

SELDOVIA NATIVE ASSOCIATION / STATE OF ALASKA
LAND EXCHANGE ADL 224612

POWDER ISLAND IN SELDOVIA BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
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- One acre public use site easement (for day use only) to be reserved on the nob at the west end of the island, along with the beach between this nob and the larger nob to the east.

FORMER PLO 316 - JAKOLOF BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
No. 1	T8S, R13W, SM: A PORTION OF TRACT "A" WITHIN SECS. 20, 29 AND 30 DESCRIBED BY METES AND BOUNDS IN PLO 316. PARCEL APPROX. 2640' x 5280' FRONTING ON JAKOLOF BAY; ACQUIRED UNDER MENTAL HEALTH GRANT MH-128.	320

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Subject to valid existing rights (airstrip identified on state tidelands adjacent to parcel) and subject to a public use easement under AS 38.05.127.

- ATTACHMENT B -

KENAI PENINSULA CAUCUS

AN ORGANIZATION REPRESENTING
MUNICIPAL GOVERNMENTS AND CHAMBERS OF COMMERCE
OF THE KENAI PENINSULA BOROUGH
177 North Birch Street, Soldotna, Alaska 99609
Phone: 262-9107

Board of Directors:

Municipal Governments:

Don Gilman, Kenai Peninsula Borough
Betty Gilck, Kenai Peninsula Borough
John Williams, City of Kenai
Dolly Farnsworth, City of Soldotna
Michael Bundy, Kachemak City
William Noll, City of Seward
Jim Filip, City of Seldovia

Chambers of Commerce

Buzz Kyllonen, Anchor Point
Gloria Wisecarver, Funny River
Duane Hyatt, Homer
Jim Carter, Kenai
Jack Brown, North Peninsula
Susan Springer, Seldovia
Andy Patapoff, Seward
Phil Turkington, Soldotna

April 24, 1990

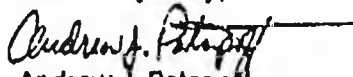
Sen. Mike Szymanski
P.O. Box V
Juneau, Alaska 99811

Dear Sen. Szymanski:

At our Board of Directors meeting on April 12, 1990 it was brought to our attention that after many years of negotiation, the Seldovia Native Association and the State of Alaska may be coming to an agreement on the terms of a land sale in the Kachemak Bay State Park. Because time is of the essence in the remainder of this legislative session and our by-laws won't allow us to send you this information in the form of a resolution, I have been tasked by the other Directors of our Board to send you this letter supporting the transaction of this land sale as outlined in the Kenai Peninsula Borough Assembly Resolution 90-30 (substitute) adopted on April 3rd of this year. We, the Kenai Peninsula Caucus, in turn support the bill before the House (introduced by Rep. Navarro) specifically dealing with this sale of land from the Seldovia Native Association to the State of Alaska.

Thank you for your time and efforts in dealing with this matter in a timely fashion.

Yours Very Truly,



Andrew J. Patapoff
President, Kenai Peninsula Caucus

TELECOPY COVER SHEET

DIVISION OF LAND & WATER MANAGEMENT
P.O. Box 107005
Anchorage, Alaska 99510-7005
phone (907)762-2692
FAX (907)762-2529

Deliver to: Senator Mike Szymanski.

Telecopy Number: 465 2657

From: Gary Gustafson DNR, DLW

Comments: How is Kachemak Bay trade Preliminary

Exhibiting Agreement. I only sent first page of Attachment B -

listing Plover Island Remaining 15 pages listed out other kind in pool

DATE: March TIME: 1:30 NO. OF PAGES: 18 including cover

Telecopier Operator: Mylin PHONE: 962 2692

If Telecopy does not transmit properly, please call TELECOPIER OPERATOR.

PRELIMINARY EXCHANGE AGREEMENT

RECITALS:

A. In 1970, the Alaska State Legislature established the Kachemak Bay State Park as a scenic park. This park was established by the legislature "in order to protect and preserve this land and water for its unique and exceptional scenic value." (§ 1 Ch. 115, SLA 1970.)

B. The Seldovia Native Association ("SNA") owns certain lands which are located within the boundaries of the Kachemak Bay State Park (hereinafter "the SNA inholdings").

Timber rights held by TTC
C. In 1987, SNA sold the timber on 12,400 acres of the SNA inholdings to Timber Trading Company, an Alaska-based forest products company (hereinafter "TTC").

D. Continued ownership of the SNA inholdings by SNA and continued ownership of the timber on 12,400 acres of the SNA inholdings by TTC prevents the State from carrying out its statutory mandate to protect and preserve the unique and exceptional scenic value of the Kachemak Bay State Park.

E. By reason of the foregoing, and in accordance with 11 AAC 67.210(d), the Commissioner of the Department of Natural Resources of the State has determined in writing that it is in the public interest to negotiate a preliminary exchange agreement under 11 AAC 67.230.

F. The State's authority for entering into this agreement is found in AS 38.50 and 11 AAC 67.200-67.280. However, certain of the provisions in this agreement, specifically, the bid credit system described below, and the absence of a limitation on consideration other than land and timber rights flowing to SNA and TTC, are not consistent with current State statutes and regulations. In addition to the legislative approval required by AS 38.50, specific legislative approval is needed to authorize these provisions. Regardless of the provisions of the final exchange agreement, the exchange is likely to require legislative approval under AS 38.50.020.

G. The State seeks to acquire SNA land and TTC timber within the legislatively established boundary of Kachemak Bay State Park through an equal appraised fair market value exchange of land and timber. The combined value of State interests to be exchanged to SNA and TTC shall equal the appraised fair market value of SNA's surface estate within Kachemak Bay State Park and the appraised fair market value of that portion of TTC's timber that is commercially viable.

H. In exchange, SNA seeks to acquire State land with development and revenue generation potential and other forms of compensation equal in value to the SNA inholdings, and TTC seeks to acquire timber rights and other consideration from the State equal in value to its commercially viable timber as referenced in the timber cruise provided for in paragraph 8(c) below, consisting of 4,435 acres of the SNA inholdings (hereinafter the "commercially viable forest land").

State already working on a bankroll

I. The State has appropriated \$50,000 in FY 1989 and \$50,000 in FY 1990 which is to be paid to SNA as partial consideration for the SNA inholdings. In addition, \$50,000 in federal matching funds have been requested for payment to SNA, and an additional \$50,000 in federal matching funds is likely to be obtained in FY 1990. Thus, the sum of \$100,000 to \$200,000 in cash is available to be paid to SNA immediately upon legislative approval of a land exchange, in partial compensation for the SNA inholdings.

A G R E E M E N T:

In order to further the purposes of the proposed exchange, the State, SNA, and TTC agree as follows:

1. The SNA inholdings and TTC timber that the State desires to acquire from SNA and TTC are described in Attachment A.

2. The State land to be acquired by SNA shall be selected from the land pool identified in Attachment B. If necessary, two supplemental pools will be identified by July 19 and August 9, and will be added to this agreement by amendment. To the extent that SNA does not acquire lands of equal value from the land pool, subject to legislative approvals, its entitlement to compensation shall be satisfied by (a) transfer of lands subject to land sales contracts; and/or (b) bid credits redeemable against State oil and gas lease sales, or State lands sales conducted in the future, the terms and conditions of which, including discount rates, will be negotiated between the parties prior to execution of a final exchange agreement; and (c) cash, including a minimum payment of \$100,000 to \$200,000 to be paid immediately upon legislative approval of the trade.

3. The pool of state lands subject to sales contracts which will be available for transfer to SNA will be identified by a supplemental land pool which will be added to this agreement by amendment by August 9, 1989.

4. The replacement timber rights to be acquired by TTC shall be selected from a timber pool to be identified by a

supplemental pool which will be added to this agreement by amendment by July 19, 1989.

5. The signatories to this agreement have the authority to negotiate on behalf of their principals. The signatories have established that they are the owners of the property and timber in Attachments A and B.

6. SNA will convey the surface estate only, as surface estate is defined pursuant to the Alaska Native Claims Settlement Act and court decisions construing that Act, to land identified in Attachment B, subject only to valid existing rights and other reservations of record.

7. The State will convey to SNA the lands selected by SNA from the selection pool, subject only to an exclusion of the mineral estate as defined in AS 38.50.125(a), and to valid existing rights and reservations of record.

8. The land, timber, and timber rights to be exchanged by the parties shall be on the basis of equal appraised fair market value. Land, timber, and timber rights thus appraised may be included in the exchange in the priority agreed to by the parties.

The market value of the SNA inholdings will be determined as follows:

(i) SNA will select a qualified senior appraiser(s) with the MAI designation who appears upon the most current State list of approved appraisers to conduct an appraisal of the SNA inholdings;

(ii) The appraiser shall be paid by SNA;

(iii) The appraiser will be instructed to determine the current fair market value of the surface estate (as defined in ANCSA) of each of the SNA inholdings as encumbered, including any planned easements and encumbrances described in the inventory of reservations and third party interests. In conducting the appraisal, the appraiser will be instructed to produce two appraisal reports. The first report will consist of a determination of the value of the commercially viable forest land within the SNA inholdings, the timber on which is valued pursuant to section 8(c) below. In

Ground rules for determining market value of inholdings

*1st report
Value land as cut over*

*2nd report
Value land with no cut timber*

conducting this appraisal of land, the appraiser will be instructed to value the land as cut over land. The resulting report for the value of the cut over land will appear with the report produced pursuant to paragraph 8(c) below to establish a value for the commercially viable forest land.

The appraiser will also be instructed to produce a second report which will determine the current fair market value of the remaining SNA inholdings. In making this report, the appraiser shall assume that none of the timber on the remaining SNA inholdings will be cut;

- (iv) The appraiser will perform the appraisal in conformance with the State's "Appraisal Instructions Pertaining to Valuation of State Land," a copy of which is attached hereto as Attachment C;
- (v) The resulting appraisal reports will be furnished to the State on September 15, 1989. The State will then review the appraisal reports. If the State does not concur with the appraisals, it must notify SNA and the appraiser(s) of the basis for its objections within (10) working days after receipt of the appraisals or such rights as are provided in Section 8(a)(vi) of this agreement be waived. The appraiser(s) will respond to the objections in writing within five (5) working days and revise the appraisals within ten (10) days, if appropriate;
- (vi) In the event the State does not concur with valuation of all or part of the real property as set forth in the appraiser's response, it may, at its own expense and effort contract with a senior appraiser with the MAI designation, acceptable in writing to the other party, to conduct a second appraisal of all or part of the real property involved in this proposed exchange. Appraisal instructions will be in writing and approved by both parties prior to commencement of any work on the

second appraisal. This second appraisal will be completed within sixty (60) days from receipt of the first appraiser's response to objection. If the second appraisal results in a value difference of ten percent (10%) or less from the original appraised value, the two (2) values will be averaged and the result will be used in any final exchange agreement.

*Appraisal
Arbitration*

In the event the value difference exceeds ten percent (10%), and agreement cannot be reached between the parties, a third senior appraiser with the MAI designation selected by the two parties will act as an arbitrator to review the first and second appraisals and render an opinion as to the appropriate fair market value of the properties which is within the range of the two original appraisals. Such appraiser shall be chosen within fifteen (15) days of receipt of the second appraisal and shall render his opinion within thirty (30) days of his selection. Both parties and their appraisers will have the right to meet with the third appraiser to explain the previous appraisals and to answer any questions the appraiser might have. The opinion furnished by the arbitrating appraiser will be binding on both parties and will be used in any final exchange agreement. Costs of the arbitrating appraiser will be paid equally by the State and SNA;

*Value
Determination* (vii)

The value of SNA's inholdings shall be the total of the cutover value established for the commercially viable forest land and the value of the remaining SNA inholdings.

- (b) The Market value of the State lands in the land pool will be determined as follows:
- (i) The State will solicit a qualified senior designated appraiser to conduct appraisals of the State properties;
 - (ii) The State will review the appraisal proposals received by it in response to the RFP and will select an appraiser or appraisal firm ("appraiser") to be retained

to appraise the State real properties based on the evaluation criteria in the RFP;

- (iii) The State will enter into a contract with the appraiser selected, and will bear the cost of all appraisals performed by said appraiser;
- (iv) In the appraisal contract, the appraiser will be instructed to determine the current fair market value of each of the State properties, as encumbered, excluding the mineral estate as defined in AS 38.50.125(a) and including any planned easements and encumbrances described in the inventory of reservations and third party interests;
- (v) The resulting appraisal report will be furnished to SNA on September 15, 1989. SNA will then review the appraisal reports. If SNA desires the land, yet does not concur with the appraisal, it must notify the State and the appraiser of the basis for its objections within ten (10) working days after receipt of the appraisal or such rights as are set forth in Section 8(a)(vi) of this agreement shall be waived. The appraiser will respond to the objections in writing within five (5) working days and revise the appraisal within ten (10) days, if appropriate;
- (vi) In the event SNA does not concur with valuation of all or part of the real property as set forth in the appraiser's response, it may, at its own expense and effort contract with a senior appraiser with the MAI designation, acceptable in writing to the other party, to conduct a second appraisal of all or part of the real property involved in this proposed exchange. Appraisal instructions will be in writing and approved by both parties prior to commencement of any work on the second appraisal. This second appraisal will be completed within sixty (60) days from receipt of the first appraiser's response to objection. If the second appraisal results in a value difference of

ten percent (10%) or less from the original appraised value, the two (2) values will be averaged and the result will be used in any final exchange agreement.

In the event the value difference exceeds ten percent (10%), and agreement cannot be reached between the parties, a third senior appraiser with the MAI designation selected by the two parties will act as an arbitrator to review the first and second appraisals and render an opinion as to the appropriate fair market value of the properties which is within the range of the two original appraisals. Such appraiser shall be chosen within fifteen (15) days of receipt of the second appraisal and shall render his opinion within thirty (30) days of his selection. Both parties and their appraisers will have the right to meet with the third appraiser to explain the previous appraisals and to answer any questions the appraiser might have. The opinion furnished by the arbitrating appraiser will be binding on both parties and will be used in any final exchange agreement. Costs of the arbitrating appraiser will be paid equally by the State and SNA.

Timber Valuation
(c)

The market value of the TTC timber will be determined as follows:

- (i) TTC has selected a qualified timber cruiser or timber cruising firm who has been instructed to determine the standing volume and quality of the TTC timber. A copy of the cruising methodology and instructions that were used is attached hereto as Attachment D;
- (ii) Prior to commencement of the timber cruise, the State approved the cruiser and the methodology and instructions;
- (iii) The cruiser was paid by TTC. The State accompanied the cruiser during the field work portion of the timber cruise for the purpose of monitoring the implementation of the cruise instructions;

- (iv) The cruise report will be the basis for valuation of the timber. TTC has selected a qualified timber appraiser who has been instructed to determine the current fair market value of the commercially viable timber on the TTC timber ownership. TTC and DNR shall agree upon timber appraisal instructions;
- (v) The timber cruise report will be furnished to the State by August 31, 1989, and the appraisal report will be furnished to the State on September 15, 1989. The State will then review these reports. If the State does not concur with the cruise or the appraisal, it must notify TTC and the cruiser or appraiser of the basis for its objections within ten (10) working days after receipt of the cruise or appraisal or such rights as are provided in Section 8(c)(vi) of this agreement be waived. TTC and or its cruiser or appraiser will response to the objections in writing within five (5) working days and revise the cruise or appraisal within ten (10) days, if appropriate;
- (vi) In the event the State does not concur with valuation of all or part of the timber as set forth in the appraiser's response, it may, at its own expense and effort contract with a qualified timber appraiser, acceptable in writing to the other party, to conduct a second appraisal of all or part of the timber involved in this proposed exchange. Appraisal instructions will be in writing and approved by both parties prior to commencement of any work on the second appraisal. This second appraisal will be completed within sixty (60) days from receipt of the first appraiser's response to objection. If the second appraisal results in a value difference of ten percent (10%) or less from the original appraised value, the two (2) values will be averaged and the result will be used in any final exchange agreement.

In the event the value difference exceeds ten percent (10%), and agreement cannot be reached between the parties, a third

qualified appraiser selected by the two parties will act as an arbitrator to review the first and second appraisals and render an opinion as to the appropriate fair market value of the timber which is within the range of the two original appraisals. Such appraiser shall be chosen within fifteen (15) days of receipt of the second appraisal and shall render this opinion within thirty (30) days of his selection. In the event the parties cannot agree on a third appraiser, the parties may petition the Anchorage Superior Court to appoint a third appraiser to act as an arbitrator. Both parties and their appraisers will have the right to meet with the third appraiser to explain the previous appraisals and to answer any questions the appraiser might have. The opinion furnished by the arbitrating appraiser will be binding on both parties and will be used in any final exchange agreement. Costs of the arbitrating appraiser will be paid equally by the State and TTC.

(d) The Market value of the State timber cutting rights in the replacement timber pool will be determined as follows:

- (i) The State will solicit a qualified timber cruiser or cruising firm ("cruiser") to determine the volume and quality of the timber in the timber cutting rights. The State will also solicit a qualified timber appraiser to appraise the timber cutting rights;
- (ii) The State will enter into a contract with the cruiser and with the appraiser selected, and will bear the cost of all work performed by said cruiser and appraiser;
- (iii) In the appraisal the appraiser will be instructed to determine the current fair market value of each of the State's timber parcels including any planned easements and encumbrances described in the inventory of reservations and any third party interests. The cruise will be completed by August 31,

1989, and will be supplied to the timber appraiser and to TTC;

(iv) The resulting appraisal report will be furnished to TTC on September 15, 1989. TTC will then review the reports. If TTC desires the timber rights, yet does not concur with the appraisal, it must notify the State and the appraiser of the basis for its objections within ten (10) working days after receipt of the appraisal or such rights as are set forth in Section 8(d)(v) of this agreement shall be waived. The appraiser will respond to the objections in writing within five (5) working days and revise the appraisal within ten (10) days, if appropriate;

(v) In the event TTC does not concur with valuation of all or part of the timber cutting rights as set forth in the appraiser's response, it may, at its own expense and effort contract with a qualified timber appraiser, acceptable in writing to the other party, to conduct a second appraisal of all or part of the timber cutting rights involved in this proposed exchange. Appraisal instructions will be in writing and approved by both parties prior to commencement of any work on the second appraisal. This second appraisal will be completed within sixty (60) days from receipt of the first appraiser's response to objection. If the second appraisal results in a value difference of ten percent (10%) or less from the original appraised value, the two (2) values will be averaged and the result will be used in any final exchange agreement.

In the event the value difference exceeds ten percent (10%), and agreement cannot be reached between the parties, a third qualified timber appraiser selected by the two parties will act as an arbitrator to review the first and second appraisals and render an opinion as to the appropriate fair market value of the timber cutting rights which is within the range of the two

original appraisals. Such appraiser shall be chosen within fifteen (15) days of receipt of the second appraisal and shall render his opinion within thirty (30) days of his selection. In the event the parties cannot agree on a third appraiser, the parties may petition the Anchorage Superior Court to appoint a third appraiser to act as arbitrator. Both parties and their appraisers will have the right to meet with the third appraiser to explain the previous appraisals and to answer any questions the appraiser might have. The opinion furnished by the arbitrating appraiser will be binding on both parties and will be used in any final exchange agreement. Costs of the arbitrating appraiser will be paid equally by the State and TTC.

9. The State desires to acquire the SNA inholdings and the TTC timber through an equal value exchange of land and timber. If necessary to equalize values, DNR is willing to support legislation that allows the State to include cash or other considerations (including bid credits on oil and gas lease sales or future State land sales) to SNA and other considerations to TTC. Within forty-five (45) days of the time that the final list of State properties to be included in the land pool is agreed upon, the parties shall by mutual agreement determine the minimum value of State lands which SNA must select from the land pool. Within thirty (30) days of the time that the final list of State timber to be included in the timber pool is agreed upon, the parties shall by mutual agreement determine the minimum value of State timber cutting rights which TTC must select from the timber pool.

10. All surveys of real property necessary to effect the exchange will be completed prior to exchange of deeds. The cost of survey will be borne by the party that owns the land requiring survey.

11. Each party will examine its respective real property and identify and provide a list to the other party of all known authorized and unauthorized entries and uses. Each party will take action to expel unauthorized entries or improvements from their land prior to execution of the exchange. An inventory of all interests to be reserved will be provided to the other party within thirty (30) days of the date of this Agreement. All third party rights will be identified prior to appraisal of replacement lands and timber rights.

12. No new third party interests may be created by either party prior to execution of the final exchange agreement, or twelve (12) months from the date this agreement is signed, whichever occurs first.

13. The State is aware of SNA's position that the 1979 Memorandum of Understanding executed by the State, SNA, CIRI, and the Kenai Peninsula Borough is, and has been for some time, of no force and effect, due to failure over the years to complete the land trades contemplated by this Memorandum,. The State is further aware that if the land trade contemplated by this Preliminary Exchange Agreement is not consummated by the end of the 1990 legislative session, SNA intends to use and develop the SNA inholdings. The State does not agree with these positions, but if the land trade contemplated by this Preliminary Exchange Agreement is not consummated by the close of the legislative session in 1990, the State is prepared to negotiate an agreement with the intent of amending or terminating the 1979 Memorandum of Understanding in accordance with SNA's positions set forth above within one year.

14. Parcel or parcels of land included in the replacement land pools may be deleted from further exchange consideration by written agreement of the parties. Further, a parcel or parcels may be added to exchange consideration by written agreement of the parties.

15. The State will classify or reclassify the land identified in the land pool as needed, pursuant to 11 AAC 67.220 and concurrently will execute a mineral closing order on the same land. pursuant to 11 AAC 67.230(b).

16. Once the parties have finalized the appraisal values of the land and timber to be exchanged, they will enter into a final exchange agreement. The final exchange agreement will contain all terms, conditions, and considerations of the exchange, including specific legal descriptions of the land to be exchanged and identification of any third-party interests created thereon. The final agreement will be submitted to the Alaska State Legislature as required by AS 38.50.020(a).

17. Any of the parties to this Agreement may terminate this Agreement on ten (10) days written notice to the other parties.

18. General Provisions.

- (a) The terms of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the representatives of the parties.

- (b) This Agreement may not be amended except in writing executed by both parties.
- (c) No waiver by any party of its rights under this Agreement is valid unless the waiver is in writing signed by such party. A waiver on one occasion does not operate as a waiver of rights on a future occasion.
- (d) Notices and other communications required or permitted by this Agreement are deemed given when delivered in person to the Director of Land and Water Management for the State or the President of SNA or when either party acknowledges receipt through signature on a form provided by a delivery service and addressed as follows:

TO STATE:

Department of Natural Resources
 Director, Division of Land &
 Water Management
 Box 107005
 Anchorage, Alaska 99510-7005

TO SNA:

Seldovia Native Assoc., Inc.
 P. O. Drawer L
 Seldovia, Alaska 99663

TO TTC:

Timber Trading Company, Inc.
 3501 Denali Street, Suite 202
 Anchorage, Alaska 99503

To the best of their abilities, the State, SNA, and TTC further agree to adhere to the following general time frame for completion of this proposed land exchange:

<u>Requirement</u>	<u>State</u>	<u>SNA</u>	<u>TTC</u>	<u>Completion Date</u>
Preliminary Exchange Agreement	X	X	X	June 30, 1989
Initiation of Appraisal Process		X	X	June 1, 1989
Initiation of Appraisal Process	X		X	

Complete supplemental pool 1 - state subdivision lots	X	X	June 23, 1989
Complete supplemental pool 2 - other parcels, timber	X	X	July 19, 1989
Complete supplemental pool 3 - land sale contracts	X	X	August 9, 1989
Reclassification, Mineral Closure, Amendments to Management Plans	X		Sept. 30, 1989
Appraisals Completed and Approved	X	X	Oct. 7, 1989
Public Notice, Report, Finding	X		October 1989
Public Hearings (Seldovia, Homer, Soldotna, Anchorage)	X	X	Nov. 30, 1989
Negotiated Equalization of Values	X	X	Nov. 30, 1989
Completion of Reclassification and Mineral Closing Order, Amendments to Management Plan	X		Dec. 29, 1989
Final Exchange Agreement	X	X	Jan. 15, 1990
Submission to Alaska Legislature	X	X	Jan. 25, 1990
Execution of Exchange	X	X	

SELDOVIA NATIVE ASSOCIATION, INC.

DATE: June 30, 1989

By Fred Elvsaaas, President

TIMBER TRADING COMPANY

DATE: June 30, 1989

By Charles E. Nelson
ITS GENERAL MANAGER

STATE OF ALASKA

DATE: June 30, 1989

By Mary Gustafson
ITS DIRECTOR, DIVISION OF LAND
AND WATER MANAGEMENT

Agmt. SNA

ATTACHMENT A

SNA LANDS TO BE ACQUIRED BY STATE

* All land described below is within Seward Meridian and is identified in BLM Interim Conveyances 139, 304, 372

Parcel	Legal Description	Approximate Acreage
1	<u>Township 7 South, Range 12 West</u> Sec. 13 (fractional): W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$	575
2	Sections 22 (fractional): excluding Lot 1 of USS 3606	370
	Sec. 21 (fractional): excluding ADL 47665 located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, ADL 41036 located in the N $\frac{1}{2}$, SW $\frac{1}{4}$, ADL 41300 located in S $\frac{1}{2}$, SW $\frac{1}{4}$	495
3	Section 29: excluding USS 4738, ADL 41084-41085 located in NW $\frac{1}{4}$ SW $\frac{1}{4}$	410
4	Section 30: excluding USS 3912, USS 3977 Tracts A, C, D, ASLS 76-114, ADL 41704, located in SW $\frac{1}{4}$ SW $\frac{1}{4}$	408
5	Sections 19 (fractional), 20 (fractional), 21 (fractional), 23 (fractional), 24 (fractional), 25 (fractional), 26, 27, 28, 31, 32, 33, 34, 35, 36: All	7,629
6	<u>Township 8 South, Range 12 West</u> Sections 1, 2, 3, 4, 7, (fractional), 8 (fractional) 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 28: All	12,385
7	Section 5 (fractional): excluding ADL 49431 located in the W $\frac{1}{2}$ W $\frac{1}{4}$ SW $\frac{1}{4}$	615
8	Section 6 (fractional): excluding ADL 48787 and ADL 49431 located in the E $\frac{1}{4}$ SW $\frac{1}{4}$; ADL 46149, ADL 46150, ADL 46151, ADL 46152, ADL 46153, and ADL 46650 located in the N $\frac{1}{4}$ SE $\frac{1}{4}$; and ADL 41043 located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$	300

ATTACHMENT A

SNA LANDS TO BE ACQUIRED BY STATE

*All land described below is within Seward Meridian and is identified in BLM Interim Conveyances 139, 304, 372

<u>Parcel</u>	<u>Legal Description</u>	<u>Approximate Acreage</u>
9	Section 16 (fractional): excluding ADL 46773 located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$	615
10	Section 21 (fractional): excluding ADL 47665 located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, ADL 41036 located in the N $\frac{1}{2}$ SW $\frac{1}{4}$, ADL 41300 located in the S $\frac{1}{2}$ SW $\frac{1}{4}$	495
	Cumulative Total	23,802