

ALASKA LEGISLATIVE COUNCIL FILED  
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**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

MEMORANDUM

April 3, 1992

**SUBJECT:** Sectional Summary: Sponsor Substitute for SB 267

**TO:** Senator Fred Zharoff

**FROM:** George Utermohle *GU*  
Legislative Counsel

This memorandum is a sectional summary of SSSB 267: an Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date.

A sectional summary is not an authoritative interpretation of a bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05.251(g) which relates to the procedures of the Board of Fisheries for considering the request of the commissioner of fish and game for approval of the commissioner's petition to Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225.

The new language requires the board to provide 30 days' public notice of its intention to consider the petition of the commissioner. Current law requires only 15 days' public notice before the board can act on the commissioner's request for approval of the petition for a moratorium.

The new language also requires the board to distribute the public notice and a copy of the petition to all advisory committees and fish and game offices in the area where the proposed moratorium would be established. The board must distribute the public notice and copy of the petition in a timely manner, so as to give the public a meaningful opportunity to respond to and comment on the proposed petition.

Section 2 of the bill provides that the bill takes effect July 1, 1992.

GU:pl  
92-240.plm

- SECTIONAL SUMMARY -

KODIAK FISH AND GAME ADVISORY COMMITTEE  
211 MISSION RD.  
KODIAK, ALASKA 99615

APRIL 2, 1992

Senator Fred Zharoff  
Room 121  
State Capital Bldg.  
Juneau, AK 99801-1182

Dear Senator Zharoff,

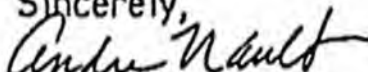
This letter is in regards to S.B. 267. The Kodiak Advisory Committee (K.A.C.) supports changes to the present law as we believe the 15 day notice period is very inadequate. We feel the public would be better served if the notices and copies of the petitions were distributed in a more timely manner and adequate review time was available.

We might suggest that even 45 days may be a more realistic notice period due to the normal length of time between advisory committees meetings. We also agree that it is important to provide copies of the petitions to the local advisory boards and local ADF&G offices.

In order to have time to notify the public of details of proposals, changes, and other actions, and be prepared to comment and make recommendations ourselves, we feel the Board and ADF&G has a responsibility to make information available as early as possible. As you know, the K.A.C. has written to you in the past about problems in receiving important fisheries related information, and any steps that can be taken to help correct this situation are appreciated.

Thank you for introducing this bill and for your consideration of our comments.

Sincerely,

  
Andre Nault, Chairman

Kodiak Fish and Game Advisory Committee

- SB267 Public Support -

**Area K Seiners Association**  
P.O. Box 2399 Kodiak, Alaska 99615  
Phone 907/486-4686 FAX 907/486-7655



March 31st, 1992

Senator Fred Zharoff  
Room 121, State Capitol  
P.O. Box V  
Juneau, AK 99801-1182

Dear Senator Zharoff:

We strongly support Senate Bill 267. The recent attempt to place a moratorium on the 23 year old Alaska Scallop fishery showed some oversight in current law that SB 267 would correct.

A large part of the scallop fishery occurs near Kodiak. The Kodiak Advisory Committee was never informed of the process that could have closed this fishery to new entrants and granted a four year monopoly to ten or fewer vessels. The Committee chairman, Andre Nault, did enough research so that the committee was able to comment on the proposed moratorium. When the scallop moratorium proposal came before the Board, the public wasn't properly noticed. Additionally, the proposal was buried on the agenda under a category called "other" instead of listed as an individual item to be discussed.

It is clear that some fishermen will try to take advantage of the moratorium law to increase their own economic advantage. Senate Bill 267 would insure that the public could more adequately participate in the process.

Sincerely,

Oliver Holm,  
Area K Seiners Board of Directors

**KODIAK LONGLINE  
VESSEL OWNERS' ASSOCIATION**



326 CENTER AVENUE, P.O. BOX 135  
KODIAK, ALASKA 99615  
(907) 486-3781 FAX (907) 486-2470

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HALIBUT • SABLEFISH • PACIFIC COD • CRAB

April 2, 1992

The Honorable Fred Zharoff  
Alaska State Legislature  
Juneau, Alaska 99811

SENT BY FAX: 463-3043

RE: Substitute for Senate Bill No. 267

Dear Fred,

We would like to express our support for Substitute SB 267. In the past, we have experienced frustration over not receiving adequate notice on Board of Fisheries agenda items. While legal requirements may have been met, it is sometimes difficult for groups in the state to track legal notices and information doesn't always get to groups which might be impacted.

In our opinion this bill is extremely important and we would like to urge you to pass this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Linda Kozak". The signature is written in dark ink and is positioned above the typed name and title.

Linda Kozak  
Executive Director



# United Fishermen's Marketing Association, Inc.

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453



April 4, 1992

Senator Fred Zharoff  
Room 121  
State Capitol  
Juneau, AK 99801-1182

SENT VIA FAX \* 463-3043

Dear Senator Zharoff,

We would like to provide you with some comments regarding SSSB 267 ("An Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date." SSSB 267 addresses AS 16.05.251.

We support the changes to AS 16.05.251(g) that are proposed in SSSB 267. The 15 days public notice that is presently required by AS 16.05.251(g) is not adequate nor reasonable. Therefore, we believe that the 30 days public notice that is proposed in SSSB 267 is a much needed improvement to AS 16.05.251(g). However, we believe that 60 days or 45 days public notice is preferable and more reasonable than 30 days, and we respectfully suggest that SSSB 267 be amended to provide for 60 days public notice.

We also support those provisions of SSSB 267 that address the issue of the distribution of the public notice and of the petition to each ADF&G Fish and Game Advisory Committee and to each ADF&G office in each of the management areas where the proposed moratorium is proposed to apply. Recent occurrences regarding the manner in which a recent request and petition for a moratorium were handled by ADF&G dictate that it is absolutely necessary to require a provision such as this which is provided in SSSB 267. However, we believe that not only the public notice and the petition, but also the "request of the Commissioner for approval of the petition" that accompanies the petition should be included in this provision of SSSB 267.

We also believe that the petition and the "request of the Commissioner for approval of the petition" that accompanies the petition should be in writing, and submitted to the Board office in writing prior to the public notice being published by the Board that the Board intends to address a moratorium.

Thank you very much for your attempt to improve and amend AS 16.05.251(g) in a manner that will allow the public a fair opportunity to have knowledge of, and to comment on, those ADF&G initiatives that apply to the establishment of a moratorium and which ADF&G proposes to submit to the Alaska Board of Fisheries.

Sincerely,

Jeffrey R. Stephan

# United Fishermen's Marketing Association, Inc.



P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453



April 5, 1992

Senator Fred Zharoff  
Room 121  
State Capitol  
Juneau, AK 99801-1182

**SENT VIA FAX # 463-3043**

Dear Senator Zharoff,

As you know, we have previously provided you with some comments regarding SSSB 267 ("An Act relating to notice of the Board of Fisheries' intention to consider approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery; and providing for an effective date." SSSB 267 addresses AS 16.05.251.

These comments should be considered additive to those comments regarding SSSB 267 that we have previously provided to you in our letter of April 4, 1992.

We believe that AS 16.05.251(g) should be amended in the following manner:

(g) The Board of Fisheries shall consider a petition and a written request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the petition and the written request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the petition and the written request of the commissioner for approval of the petition only after 60 [15] days' public notice of the board's intention to consider approval of the petition and the written request of the commissioner for approval of the petition. The board shall have in its possession the petition and the written request of the commissioner before the board may issue a public notice of the board's intention to consider approval of the petition and the written request of the commissioner. The written request of the commissioner must address the rationale that is required of the commissioner under AS 16.05.050(20). The board shall distribute in a timely manner a copy of the public notice, the petition and the written request of the commissioner for approval of the petition to each fish and game advisory committee and office of the department in the administrative area where the proposed moratorium would be established. The board shall consider whether the commissioner, in support of the written request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition and the written request of the commissioner for approval of the petition must be considered shall approve or disapprove the petition and the written request of the commissioner for approval of the petition.

*submit  
petition to  
fish and  
game  
office  
before  
notice.*

During recent activities that addressed a request by the Commissioner of ADF&G for a moratorium in the scallop fishery, the official request of the Commissioner (with his limited rationale for requesting such a moratorium) as well as the petition that the Commissioner intended to submit to CFEC, were not transmitted to the Board until the day that the Board

addressed the issue. Neither of these documents were considered ready or complete for submission to the Board until the day before the Board was expected to take action on the proposed scallop moratorium. On what basis, then, did the Board publish the legal notice that advertised that the Board intended to address the petition and the request of the Commissioner for approval of the petition to establish a moratorium on new entrants into the commercial scallop fishery under AS 16.43.225? Verbal requests that require the Board to address issues as significant as a moratorium, without any associated rationale or draft petition language, do not serve the public process.

Under AS 16.05.050(20), the Commissioner has the power to petition to establish a moratorium on new entrants into commercial fisheries:

"(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery."

It is obvious that the requirements that govern the procedures under AS 16.05.251(g) must be made clear, and must be modified to provide that the public will have a fair opportunity to have knowledge of, and to comment on, those ADF&G initiatives that apply to the establishment of a moratorium, and which ADF&G proposes to submit to the Alaska Board of Fisheries and to the Commercial Fisheries Entry Commission.

It is reasonable to require in statutory language that the official request from the Commissioner (including the statutorily required rationale), and the language of the petition that has been drafted by the Commissioner, should be available in writing to the public during the public notification period.

It is also reasonable to require in statutory language that the Board must not give public notice that the Board intends to consider a petition and a written request of the Commissioner for approval of a petition to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 unless the Board has first received, in writing, the petition and the request of the Commissioner for approval of the petition to establish a moratorium on new entrants into a commercial fishery.

Thankyou for your consideration of our comments regarding SSSB 267.

Sincerely,



Jeffrey R. Stephan

RECEIVED MAR 2 1992

NOTICE OF REVIEW OF PROPOSED PETITION  
BY THE ALASKA BOARD OF FISHERIES

Notice is given that the Alaska Board of Fisheries, under authority vested by AS 16.05.251(g), proposes to approve or disapprove a petition from the Alaska Department of Fish and Game, under AS 16.05.050(20), to the Commercial Fisheries Entry Commission that seeks to place a four year moratorium on new entrants into the statewide scallop fishery. A petition can be submitted if the department finds

- (1) that a fishery has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;
- (2) that a fishery has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and
- (3) there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

If the board approves the petition it will be submitted to the Commercial Fisheries Entry Commission for review. CFEC has the authority to establish a four year moratorium on new entrants to a fishery while the commission is investigating the need of limiting entry to that fishery.

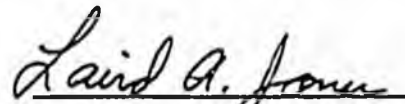
This action may require an increased appropriation.

Copies of the proposed petition may be obtained by writing to the Alaska Department of Fish and Game, Division of Commercial Fisheries, P.O. Box 25526, Juneau, Alaska, 99802-5526. Notice is also given that anyone interested may present written comments or arguments relevant to the proposed actions in this notice. Written comments may be submitted to the Board of Fisheries any time before the beginning of the public hearing tentatively scheduled as follows:

March 13, 1992 in Juneau, Alaska at the Baranof Hotel.

Anyone interested in or affected by the proposed moratorium is hereby informed that, by publishing this legal notice, the Board of Fisheries may consider all of the subjects covered by the proposed changes contained in this notice. The board is not limited by the specific language of the actual petition that has been submitted. The board's actions are limited to the subject matter given in this legal notice, but pursuant to AS 44.62.200(3), the board may review the full range of activities appropriate to any of the subjects listed.

DATE: 2.26.92

  
Laird Jones, Director  
Division of Boards

- Public notice re: SCALLOP MORATORIUM

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF FISH AND GAME

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000  
PHONE: (907) 465-4100

### OFFICE OF THE COMMISSIONER

March 10, 1992

Board of Fisheries  
1255 West 8th Street  
Juneau, AK 99801

Attention: Michael Martin, Chairman

Dear Board Members:

Recently some participants in the scallop fishery submitted information to me they are anticipating large increases in effort that could have serious negative effects on the state's scallop stocks. They also requested me, under authority granted in AS 16.05.050(20), to petition the Commercial Fishery Entry Commission to impose a moratorium on new entrants to the statewide scallop fishery to protect the resource and to stabilize the economic health of the commercial fishery.

Statute requires the board to approve or disapprove the petition before it is submitted to the Commercial Fisheries Entry Commission.

AS 16.05.050. POWERS AND DUTIES OF THE COMMISSIONER. The commissioner has, but not by way of limitation, the following powers and duties:

(20) to petition the Alaska Commercial Fisheries Entry Commission, unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

*ADFG*  
- Commissioner's request + petition -

Board Members

-2-

March 10, 1992

## AS 16.05.251. Regulations of the Board of Fisheries

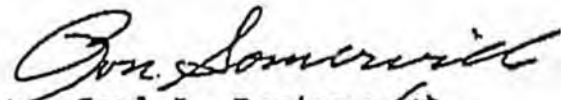
(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days public notice of the board's intention to consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

There is little information available on the scallop fishery. Fish ticket data has been collected since 1969. Limited work has been done on life history. The department has limited information on distribution, no solid data on abundance, recruitment rates, exploitation rates, and other knowledge necessary to properly manage a fishery. The limited information available indicates scallop populations may be easily overfished.

A moratorium on new entrants to the fishery could enable the department to develop a statewide scallop fishery management plan that would conserve the resource and stabilize the fishery.

In sum, I believe that present circumstances in the scallop fishery meet all three of the requirements of AS 16.05.050(20). I therefore request the board to approve the enclosed petition to the Commercial Fisheries Entry Commission.

Sincerely,

  
Carl L. Rosier  
Commissioner

Enclosed: Petition to Commercial Fisheries Entry Commission

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF FISH AND GAME

### OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000  
PHONE: (907) 465-4100

### SCALLOP MORATORIUM PETITION

Under authority of AS 44.62.220, the Department of Fish and Game hereby petitions the Commercial Fisheries Entry Commission to establish, under AS 16.43.225, a moratorium on new entrants into the Alaskan scallop fishery. The Board of Fisheries has approved this petition under AS 16.05.251(g).

There are three statutory criteria that must be met before the department can request a moratorium:

- (1) the fishery must have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;
- (2) the fishery must be at a level of harvest that may approach or exceed the maximum sustainable level for the fishery; and
- (3) there must be insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

Interest in an Alaskan scallop fishery has existed since the early 1950's when the Bureau of Commercial Fisheries began systematic surveys to determine if commercial quantities were available. It was not until 1967 that the first commercial deliveries were made. Since then the commercial harvest of scallops has fluctuated greatly, ranging from a high in 1969 of 1,850,187 pounds of shucked meats by 19 vessels in 157 landings to no fishing effort being reported in 1978. Table 1. shows the variation in vessels, landings and pounds harvested by year.

A dramatic increase in the number of landings during the two most recent seasons is of concern to the department. Effort may continue to intensify and may threaten the conservation of the state's scallop resources if new management measures are not implemented. Additionally, as a result of a pending moratorium and other management efforts in the east coast scallop fishery, it is possible that some scallop vessels from that area could migrate to Alaska.

Large variations in effort and landings may indicate maximum sustainable levels for the fishery are being exceeded. However, at the present state of knowledge it is not known what level of harvest the state's scallop populations can withstand.

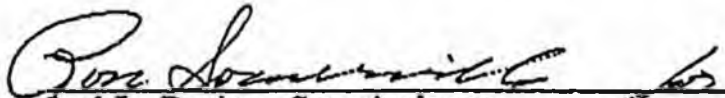
There is certainly not sufficient biological and resource management information available to promote the conservation and sustained yield of the fishery. The department issued a report in 1968, Informational Leaflet 125, that summarized the

## Scallop Moratorium Petition

state of scallop knowledge. Since that time there has been little additional information acquired on Alaskan scallop stocks, although the fishery has been prosecuted in every year except 1978. The department has a fair idea of the distribution of scallops in Alaskan waters, but no solid information on, abundance, recruitment rates, exploitation rates, and other knowledge necessary to properly manage the fishery. The limited information available indicates scallop populations may be easily overfished.

The Department of Fish and Game finds that the Alaskan scallop fishery meets the statutory criteria necessary for a moratorium under AS 16.05.050(20). Such a moratorium on new entrants would give department time to develop a management plan that would conserve the resource and stabilize the fishery. Expected increases in fishing effort may adversely impact the health of the resources which could result in a complete closure of the fishery. A moratorium would promote the orderly development of the state's scallop fishery and is necessary to protect Alaska's scallop stocks from over-exploitation, and to preserve the economic health and stability of the commercial fishery.

DATE:

3/13/92  
Carl L. Rosier, Commissioner  
Alaska Department of Fish and Game

# ALASKA BOARD OF FISHERIES

## TENTATIVE AGENDA

Spring Meeting  
Part II

Westmark Baranof Hotel  
Juneau, Alaska

March 7 - 14, 1992  
1:00 p.m.

1. Call to Order
2. Introductions of Board Members & Staff
3. Board Member Ethics Disclosures
4. Staff Reports on Southeast Alaska Chinook Salmon Management
5. <sup>3.8.92</sup> Public Testimony on Southeast Alaska Chinook Salmon Management
6. Advisory Committee & Regional Council Reports on Southeast Alaska Chinook Salmon Management
7. Board Deliberations on Southeast Alaska Chinook Salmon Management

IMPORTANT AGENDA NOTE: This portion of the meeting will not begin prior to March 11. The actual beginning of the meeting will depend on the conclusion of the deliberations of the above portion of the meeting.

8. Board member Ethics Disclosures
9. Staff Reports on 1987 Area M Tagging Study
10. Public Testimony on Tagging Study and Chum Cap
11. Advisory Committee and Regional Council Reports on Study and Chum Cap
12. Board Deliberations on Tagging Study and Chum Cap
13. Petitions/Resolutions/Findings/Letters/Other
14. Adjourn

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**NOTE:** This schedule is tentative and subject to change during the meeting. Schedule updates can be obtained by calling the board's recorded message phone during the meeting. The number is 586-9819.

U:\BDIR\AGENDA.JUN [02/14/92 @ 4:32pm]

- BOARD AGENDA / MAR 7-14 MEETING

# ALASKA BOARD OF FISHERIES

## Summary

### June Area M. Chum Cap Issue and Other issues the Board Considered

The board had met from early afternoon of Friday, March 13 through the late evening of Sunday, March 15 on the June Area "M" Chum Cap Issues. Following the Area "M" issues, the board took actions on the other petitions and requests.

The department first briefed the board on the 1987 tagging study as the only staff report for this portion of the meeting. The board then heard from two public panels on interpretations of the significance of the 1987 tagging study. One panel represented the general western Alaska area from Bristol Bay through the Norton Sound areas. The other panel represented the Alaska Peninsula and Aleutian Islands Area ("Area M"). Each panel was provided 30 minutes to state their case on the 1987 tagging study. [Note: There was one coin toss to select which person representing each panel was going to call heads or tails (the Area M person won). The second coin toss was won by the Area M person. They selected to go second in the panel presentations]

After the panel presentations, the board asked the department additional questions about the study and items brought up during the panel presentations. The board voted unanimously to proceed with considering the June Area M Chum Cap (03/14/92 @ 3:11pm).

The evening of March 13 the chairman of the board (Mike Martin) met with five fishermen from Area M and five fishermen of the A-Y-K areas to see if there was common ground the groups could agree on. The next morning the chair reported that the groups could not agree on a solution to the issues but did agree on some other ideas. He also hoped the affected fishermen would continue the dialogue to see if there could be at least an understanding between the fishermen.

The board heard from approximately 83 people and 5 advisory committees that afternoon, next morning and into the afternoon.

At 4:30 the first motion was:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: The total chum salmon harvest shall not exceed "a range of 500,000 - 700,000 fish (cap). When the chum harvest reaches 500,000, a working group comprised of 4 area M and 4 A-Y-K persons and the ADF&G shall implement a plan to reduce chum harvest to allow for Area M to reach their project 8.3% allocation while not exceeding the chum cap. This will sunset in one year with the board reviewing the progress of the working group and the fishery. The department shall monitor both fisheries in concurrence with any

existing subsistence needs in any of the effected areas." This motion was withdrawn at 5:26 p.m.

The second motion provided:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: [40 PERCENT OF THE FORECASTED SOCKEYE SALMON GUIDELINE HARVEST LEVEL. THE TOTAL ANNUAL CHUM SALMON HARVEST SHALL NOT EXCEED 900,000] [bracketed language to be deleted] "700,000". "When the harvest reaches 400,000 chum salmon, the department shall take appropriate management action, in season, to reduce the remaining chum harvest rate while attempting to allow full harvest of the sockeye guideline harvest level." Note: underlined language to be added. This motion carried at 6:45pm [6 in favor; 1 against].

The third motion provided [intent language]:

To amend the adoption order to amend: 5AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON MANAGEMENT PLAN. (f) to provide the following: "for the set gillnet fishermen approximately 16 hours of fishing opportunity during the periods after the 400,000 threshold is reached and to end when the 700,000 is reached." This carried at 7:47pm [6 in favor; 1 absent]. This is not to expand the set gillnet allocations. It is to maintain status quo on the allocations. Only to be implemented between the 400,000 and 700,000 chum harvest times.

NOTE: The draft regulatory language for 5AAC 09.365. is enclosed.

The board denied the request from the Commissioner of Fish and Game to petition Commercial Fisheries Entry Commission on providing a moratorium for the Scallop Fisheries [1 in favor; 5 against; 1 absent].

The board delegated authority to the commissioner to adopt certification:decertification for the shellfish onboard observer program [6 in favor; 2 absent].

The board approved adding to the October 1992 Soldotna meeting considering two proposals from Fish and Wildlife Protection to correct two statewide fish regulations (house keeping issues) [carried without objection].

The board denied a petition from the Chair of the Prince William Sound Aquaculture Corporation Production and Planning Committee [0 for; 6 against; 1 absent]. The petition requested the board to amend: 5AAC 24.367 (b)(1) to allow for "drift gillnet fleet to set amongst the setnets on openers only, to benefit from buildups."

After a long hard, but productive meeting cycle, the board adjourned at 10 pm.

DRAFT REGULATORY LANGUAGE - MARCH 1992 BOARD MEETING  
FALSE PASS JUNE CHUM CAP  
DRAFT AS OF MARCH 18, 1992

5 AAC 09.365. SOUTH UNIMAK AND SHUMAGIN ISLANDS JUNE SALMON  
MANAGEMENT PLAN.

(f) The department shall close the June fishery before the sockeye guideline harvest levels are taken if incidental harvest of chum salmon reaches [40 PERCENT OF THE FORECASTED SOCKEYE SALMON GUIDELINE HARVEST LEVEL. THE TOTAL ANNUAL CHUM SALMON HARVEST SHALL NOT EXCEED 900,000 FISH] 700,000 fish. When the harvest reaches 400,000 chum salmon, the department shall take appropriate management action, in season, to reduce the remaining chum salmon harvest rate while attempting to allow full harvest of the sockeye salmon guideline harvest level. The documented contribution of Russell Creek Hatchery chum salmon to the June fishery shall be added on over the existing chum salmon numerical quota beginning in 1993.

(g) If it becomes necessary for the department to take management actions, as specified in (f) of this section, to reduce the chum salmon harvest rate, the fishing periods for set gill gear shall not be less than 16 hours in duration, unless such a period will result exceeding the chum salmon guideline harvest level.

v:\paul\FALSE92.REG



SENATOR FRED F. ZHAROFF  
ALASKA STATE LEGISLATURE

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

DURING SESSION:

STATE CAPITOL BLDG., JUNEAU, ALASKA 99801-1182 • (907) 485-3473 • FAX: (907) 483-3043

DISTRICT N

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

March 13, 1992

Mr. Michael Martin  
Chairman  
Alaska Board of Fisheries  
P.O. Box 25526  
Juneau, AK 99802-5526

Dear Mr. Martin:

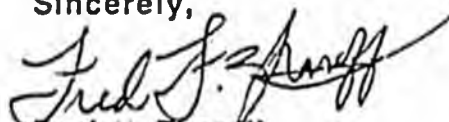
It has come to my attention that, during the Board of Fisheries meeting now being conducted, the board will review a petition from the Alaska Department of Fish and Game, which proposes to place a four year moratorium on entry into the Alaska statewide scallop fishery.

Notice of review of this proposal, dated February 26, 1992, indicating that a comment period on this proposal would end on March 13, 1992, was received by my office on March 2, 1992. According to the notice, the public is required to have received the notification of this proposal, written to ADF&G in Juneau to obtain data relative to the proposal, and returned their comments to the Board of Fisheries between the dates of February 26, and March 13, 1992. The petition itself was not provided to the Kodiak Fish and Game Advisory Committee, the area where much of this fishery is conducted, for consideration. Review of this petition is not apparent on the tentative agenda for the March 7-14 Board of Fisheries meeting, except under item number 13, "Petitions / Resolutions / Findings / Letters / Other".

In my view, public notice of consideration of this moratorium proposal by the board has been seriously inadequate, and the ADF&G petition itself has not been adequately available for consideration and comment. Consideration of the approval of the petition from ADF&G to the Commercial Fisheries Entry Commission regarding a moratorium on entry into the statewide scallop fishery is not appropriate at this time.

In the interest of providing the public sufficient notification and opportunity to provide meaningful comment on this proposed action as intended, I most respectfully and strongly urge you to delay consideration of this petition by the Board of Fisheries at least until the next regular board meeting.

Sincerely,

  
Fred F. Zharoff  
Alaska State Senator

FFZ/ds

- WRITTEN PUBLIC COMMENT -

KODIAK FISH AND GAME ADVISORY COMMITTEE  
211 Mission Road  
Kodiak, Alaska 99615

March 13, 1992

Alaska State Board of Fisheries  
Post Office Box 25526  
Juneau, Alaska 99802-5526

Dear Board Members:

The Kodiak Advisory Committee (KAC) voted unanimously to oppose a moratorium on entrants into the statewide scallop fishery. The Department of Fish and Game (ADF&G) should not have submitted this petition to the Board because the three criteria necessary are not met:

- 1) This fishery has not experienced recent increases in fishing effort that are beyond a low sporadic level of effort. Landings, vessels and catch are all within the historic range for this 23 year old fishery.
- 2) This fishery has not achieved a level of harvest that may be approaching or exceeding the maximum sustainable level. While there have been scallop landings that have fluctuated greatly with effort, but catches over one million pounds have occurred over relatively long periods. Average landings per vessel last year were almost exactly the same as the average for the first 23 years. (Bay scallops were not utilized at all.) Since the State is so large and abundance fluctuates locally, it is unlikely that all scallop beds are being exploited.
- 3) There is not much biological information on scallops, but the catch information indicates that current levels of harvest are sustainable although probably do vary. Intensive exploitation on the East Coast has not managed to eliminate scallops there. The Department has the ability, under their permitting powers, to require more information if they wanted to. The fact that the Department has not required observers or other changes in the fishery indicates that they do not feel more information is needed.

The KAC feels that the petition is being pushed strictly to limit competition. Scallop vessels around Kodiak have usually come from the East Coast. The petitioner came from the East Coast. The Committee would look with favor on conservation measures, but a moratorium is not a conservation measure. It is an allocation measure.

To protect crab stocks and to gather more detailed scallop information, we recommend including all scallop vessels in the shellfish observer program.

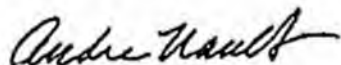
MAR-13-92 FRI 13:38 P.V. GOLD NUGGET 9874889430 P.03

Alaska State Board of Fisheries  
March 13, 1992  
Page 2

The KAC feels that the use of a moratorium may have some merit when used in a new and emerging fishery, providing that the Department and Board have exhausted all other reasonable management options and a serious increase in effort is demonstrated to be threatening the health of stocks. However, we do not feel this has been proven to be the case in the Alaska scallop fishery. We do not think the Board should use a moratorium to take the place of good biological management, and we object to creating a defacto limited entry program for a select few boats in a multi million dollar fishery.

After reviewing the history of the scallop fishery in Alaska, we are extremely surprised that the Commissioner forwarded this petition to the Board of Fisheries. We urge the Board to reject this petition. We would also point out that the agenda does not adequately notice when this will come before the Board.

Respectfully,



Andre Nault, Chairman  
Kodiak Fish and Game Advisory Committee



Oliver Holm, Vice Chairman  
Kodiak Fish and Game Advisory Committee

AN/OH/gp

copies: Senator Cliff Davidson  
Senator Fred Zharoff

MARK-13-92 FRI 3:21 UPMR 7-02

# United Fishermen's Marketing Association, Inc.

P.O. Box 1035 Kodiak, Alaska 99615

Telephone 486-3453

March 12, 1997



Mr Michael Martin  
Chairman  
Alaska Board of Fisheries  
P. O. Box 25526  
Juneau, AK 99802-5526

## COMMENT ON ADF&G PETITION REGARDING A MORATORIUM IN THE ALASKAN SCALLOP FISHERY

Dear Mr. Martin,

We request the Alaska Board of Fisheries ("Board"), under the authority granted to the Board in AS 16.05.251(g), to disapprove the Scallop Moratorium Petition that is submitted to the Board by the Commissioner of The Alaska Department of Fish and Game ("Commissioner"). The Board has authority to disapprove the Scallop Moratorium Petition.

In the Scallop Moratorium Petition, the Commissioner petitions the Commercial Fisheries Entry Commission ("CFEC") to establish, under AS 16.43.225, a moratorium on new entrants into the Alaskan scallop fishery.

Under AS 16.05.050(20), before the Commissioner can petition the CFEC to establish a moratorium in the Alaskan scallop fishery, he must demonstrate to the Board that the following three criteria exist:

(1) the Alaskan scallop fishery must have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) the Alaskan scallop fishery must have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(3) that there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the Alaskan scallop fishery

The Commissioner is grossly incorrect in his claim that the three statutory criteria exist. The Commissioner has not demonstrated, nor has he even remotely substantiated, that the three statutory criteria have been met, other than to little more than simply state that they have been met.

Prior to a request for the proposed moratorium by a predominant beneficiary of any moratorium in the Alaskan scallop fishery, there was no such request from any member of the staff of the Alaska Department of Fish and Game ("ADF&G") who have the responsibility to manage the Alaskan scallop fishery. Indeed, we challenge the Commissioner to produce documents, reports, memorandum, etc. that would demonstrate that ADF&G staff had any difficulty or concern that related to the three statutory criteria that have been claimed to exist by the Commissioner.

This Petition was requested by a member of the Alaskan scallop industry who will be one of a very few predominant beneficiaries of a moratorium in the Alaskan scallop fishery (such member claims to be one of 5 "traditional" scallopers at present). The very few beneficiaries

of the proposed moratorium will share in a scallop fishery that was worth, ex-vessel value, approximately \$4 Million in 1991, and approximately \$5.2 Million in 1990.

In the Scallop Moratorium Petition, the Commissioner states that, "Such a moratorium on new entrants would give the department time to develop a management plan that would conserve the resource and stabilize the fishery". We ask the Board to ask the Commissioner to explain several aspects of the management of the scallop fishery, including the details of developing a management plan for the Alaskan scallop fishery:

1. On what basis has ADF&G been managing the Alaskan scallop fishery to the present time?
2. Why has ADF&G failed to develop a management plan for the Alaskan scallop fishery before now?
3. What human and financial resources has the Commissioner currently budgeted for the development of this proposed management plan?
4. How much time does the Commissioner feel he needs to develop the proposed management plan?
5. Has the Commissioner proposed any human and financial resources in the ADF&G F/Y 1993 budget to develop the proposed management plan?
6. Is the Commissioner able to develop a management plan for the Alaskan scallop fishery without having a moratorium in place?
7. Is a moratorium a necessary prerequisite for developing a management plan for the Alaskan scallop fishery?
8. Is it not the responsibility of the Board to develop a management plan?
9. Has the Commissioner ever indicated to the Board in the past that such a management plan is necessary, or that he is unable to conserve or manage the Alaskan scallop fishery?
10. Has the Commissioner substantiated that his staff is unable to manage and conserve the Alaskan scallop fishery?
11. Can the Commissioner produce any past reports, documents, memorandum or verbal testimony from his staff who have responsibility for managing the Alaskan scallop fishery that ADF&G is unable to manage and conserve the Alaskan scallop fishery?
12. Has the Commissioner ever discussed, or proposed to the Board, any other solutions that would address the problems that he perceives to exist in the scallop fishery [ie, 100 % observer coverage on scallop vessels (wrap them into the Alaska shellfish observer program); the development of an enforcement plan in cooperation with the Fish and Wildlife Protection Division of the Department of Public Safety that would result in a focused enforcement effort on scallop vessels; the requirement of satellite or some other type of position indicators on scallop vessels; outright closures of areas that are determined to be in jeopardy; limiting the width of a scallop dredge; establishing a minimum ring size greater than the currently permitted 4 inches; limiting the length of a scallop vessel; establishing a trip limit for scallop vessels; establishing registration areas for scallop vessels (including exclusive and super-exclusive registration areas); etc.]?
13. Can the Commissioner provide information regarding the length of time that the beneficiary vessels, owners, operators and crews of a scallop moratorium have participated in the Alaskan scallop fishery?
14. How does the Commissioner reconcile the fact that he is now proposing a step as drastic as a moratorium, but yet has not submitted any other regulatory proposals to the Board that would assist ADF&G in conserving, stabilizing and managing the Alaskan scallop fishery?
15. Does the Commissioner intend to develop any regulatory proposals regarding the Alaskan scallop fishery prior to the April 10, 1992, proposal deadline?

16. Are there any areas of the state where the scallop fishery is regulated in such a manner that ADF&G is able to conserve and manage the scallop fishery?

17. Are regulations and other Permit Requirements that govern the Alaskan scallop fishery applied uniformly throughout the state, or have different management areas developed specific management regimes, Permit Requirements and Regulations that allow ADF&G to conserve and manage the scallop fishery?

It appears that the legal notice that pertains to the Board action on the Scallop Moratorium Petition may allow the Board to take a variety of regulatory action, apart from action on the Scallop Moratorium Petition, during your current meeting. Also, there are several options that are available to the Board, and several options that are at the immediate disposal of the Commissioner, that would address any ADF&G or industry concerns regarding the scallop fishery. Independent of Board direction or action, the Commissioner may stipulate, at his discretion, any variety of Permit Requirements regarding any aspect of the Alaskan scallop fishery

AS 16.05.251(g) states, "The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition." (emphasis added)

We understand that the required official request of the Commissioner for approval of the petition was not transmitted to the Board prior to the date that the legal notice was published (2/26/92); that is, that the legal notice relative to this issue was published prior to the Board having received the required official request from the Commissioner. We further understand that as of today, the Commissioner has not yet transmitted the required official request to the Board. Therefore, we believe that the legal notice was improperly and prematurely released, which would not permit the Board to take action on this issue at this meeting. Additionally, as we have submitted previously, the Commissioner has not adequately shown that the fishery meets the requirements for a moratorium on new entrants under AS 16.05.050.

We respectfully request that the Board judge that the issue of a moratorium in the Alaskan scallop fishery is not properly or legally before you at this meeting. If the Board decides to take action on this issue at this meeting, we respectfully request that the Board disapprove any Petition from the Commissioner regarding a moratorium in the Alaskan scallop fishery. Thankyou for your consideration of our comments regarding this issue.

Sincerely,



Jeffrey R. Stephan

5 AAC 39.205 ALASKA AN

sonal use fisheries. The primary purpose is to protect the sustained yield of the fishery at the same time providing an equitable distribution of the harvest between various users. The regulations are intended to aid in the achievement of these goals and apply to all fishery management plans contained in 5 AAC 03-5 AAC 39.

(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery. (Eff. 4/16/83, Register 86)

Authority: AS 16.05.251

5 AAC 39.205. CRITERIA FOR THE ALLOCATION OF FISHERY RESOURCES AMONG PERSONAL USE, SPORT, AND COMMERCIAL FISHERIES. Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e). (Eff. 6/10/87, Register 102)

Authority: AS 16.05.251

5 AAC 39.210. MANAGEMENT PLAN FOR HIGH IMPACT EMERGING FISHERIES. (a) To guide management of high impact emerging commercial fisheries, a plan is needed that ensures resource conservation, minimizes impacts on existing users, and provides for the orderly development of new fishery resources.

(b) The department may regulate a commercial fishery as a high impact emerging commercial fishery if the commissioner determines

5 AAC 39.210

that any of the following apply in an area or fishery:

- (1) harvest level;
- (2) interest more than 20%;
- (3) the level of harvest not be sustainable;
- (4) the board has addressed issues in the fishery.
- (c) The commissioner has made a management plan.
- (d) The department has approved the fishery once it has been established and may not reopen the fishery without associated regulations until the interim management plan is approved by the commissioner.
- (e) The department has approved each high impact emerging fishery management plan shall:
  - (1) a review of the fishery in Alaska;
  - (2) a review of the fishery;
  - (3) identify the fishery;
  - (4) an evaluation of the fishery;
  - (5) design management measures;
  - (6) an evaluation of the management plan;
  - (7) a plan for the fishery;
  - (8) a list of the fishery;
  - (9) a cost-benefit analysis;
  - (10) an analysis of the fishery.
- (f) The commissioner shall ensure that the management plan is consistent with the regulations under (g).
- (g) Upon completion of the management plan, the board shall hold a public meeting.

any of the following conditions apply to a species or species group in an area or region:

(1) harvesting effort has recently increased beyond a low sporadic level;

(2) interest has been expressed in harvesting the resource by more than a single user group;

(3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level;

(4) the board has not developed comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery.

(c) The commissioner shall notify the board if a determination is made to manage a fishery as a high impact emerging fishery.

(d) The department shall close a high impact emerging commercial fishery once it has been designated as such by the commissioner, and may not reopen the fishery until an interim management plan and associated regulations have been adopted by the commissioner. If an interim management plan and regulations have been adopted, the commissioner may allow the fishery to continue.

(e) The department shall develop an interim management plan for each high impact emerging commercial fishery. An interim management plan shall contain at least the following information:

(1) a review of the history of commercial exploitation of the species in Alaska and other relevant jurisdictions;

(2) a review of the life history of the organism;

(3) identification of specific management goals and objectives;

(4) an evaluation of potential impacts on existing users;

(5) designation and justification of the preferred management measures;

(6) an evaluation of the conservation impacts of the preferred management approach on non-target species and on non-target individuals of the same species;

(7) a plan for determining the productivity of the species and impact of the fishery;

(8) a list of proposed interim regulations;

(9) a cost estimate for plan implementation;

(10) an analysis of customary and traditional subsistence use patterns.

(f) The commissioner may adopt regulations and open the fishery consistent with measures identified in the interim management plan. The regulations will remain in effect until the board adopts regulations under (g) of this section.

(g) Upon completion of an interim plan, the department shall petition the board under 5 AAC 96.625 to consider adoption of the management plan and associated regulations at its next regularly scheduled meeting.

ZURRING FISHERS

Alaska Marine Fisheries

5 AAC 39.230 ALASKA ADMINISTRATIVE CODE 5 AAC 39.250

(h) The department may require onboard observers as specified in 5 AAC 39.141 and 5 AAC 39.645 on fishing vessels, catcher/processors and floating processors that participate in high impact emerging commercial fisheries. (Eff. 4/30/91, Register 118)

Authority: AS 16.05.251

Article 2. Salmon Fishery

Section	Section
230. Gear	280. Identification of stationary fishing gear
240. General gear specifications and operations	281. (Repealed)
250. Gill net specifications and operations	290. Closed waters
260. Seine specifications and operations	292. (Repealed)
270. Troll specifications and operations	

5 AAC 39.230. GEAR. Only those gill nets, seines, troll lines, fishwheels, spears or other appliances as provided for in 5 AAC 03-5 AAC 39 may be used to take salmon. (In effect before 1988)

Authority: AS 16.05.251

5 AAC 39.240. GENERAL GEAR SPECIFICATIONS AND OPERATIONS. (a) A salmon fishing vessel shall operate, assist in operating, or have aboard it or any boat towed by it, only one legal limit of salmon fishing gear in the aggregate except as otherwise provided in this title.

(b) Unhung gear sufficient for mending purposes may be carried aboard fishing vessels.

(c) A purse seine, hand purse seine or beach seine may not be fished simultaneously with gill net gear by any individual or vessel.

(d) Salmon fishing nets must be measured, either wet or dry, by determining the maximum or minimum distance between the first and last hanging of the net when the net is fully extended with traction applied at one end only.

(e) The interim-use or entry permit card holder is responsible for the operation of the net. (In effect before 1985; am 5/31/85, Register 84)

Authority: AS 16.05.251

5 AAC 39.250. GILL NET SPECIFICATIONS AND OPERATIONS. (a) The trailing of gill net web is prohibited at any time or place where fishing is not permitted.

(b) Set gill nets shall be removed from the water during any closed period.

5 AAC 39.260 FISH AND GAME

(1) in the Southeast Alaska, Yakutat, Pri Cook Inlet Areas, gill net web must meet requirements:

(A) the web must contain at least 30 elements must be of equal diameter, or

(B) the web must contain at least six f must be at least 0.20 millimeter in dia

(2) effective 1/1/89, the requirements in subsection apply in the Kodiak, Chignik, A Peninsula, Bristol Bay, Kuskokwim, Yuk Clarence, and Kotzebue-Northern Areas.

(d) The float line and floats of gill nets surface of the water while the net is fishing, cause the net to temporarily sink. The restr does not apply to the Kotzebue-Northern ( Sound-Port Clarence (5 AAC 04.100), Y- Kuskokwim (5 AAC 07.100), and Kodiak (5 effect before 1983; am 4/16/83, Register 86; a am 4/2/88, Register 105)

Authority: AS 16.05.251

5 AAC 39.260. SEINE SPECIFICATI TIONS. (a) In the use of purse seines and har than one anchor may be used to hold the se during a set.

(b) Repealed 3/26/76.

(c) Unless otherwise provided in 5 AAC ( seine is considered to have ceased fishing wh the water.

(d) A hand purse seine is considered to r both ends of the seine are fast to the ves:

(e) A beach seine is considered to have c the lead line is above the water on the b

(f) Where the use of leads is permitted, a p have or use more than one lead of legal le purse rings attached, and with a minimum :

(g) If a purse seine and a lead are oper

(1) the lead must be attached to the

(2) the lead may be attached to only or

(3) the lead may not be attached at an seine;

(4) the web of the purse seine must over at least one fathom, or the web of the pu the end of the lead for the entire dept

(5) - (8) repealed 6/2/88.

... 20 Elements, except that

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FISCAL NOTE

No. 1  
 Version: SB 272  
 (S) Publish Date: 4/29/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to notice of adoption of emergency regulations..." BRU: Legal Services  
 Component: Operations  
 Sponsor: By request of the Governor  
 Requestor: Governor's Office COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	changes in <u>CSA 272</u> (RLS)	-0-	-0-
PART-TIME		have no fiscal impact. This		
TEMPORARY		fiscal note is appropriate.		

Estimate of current year impact: \_\_\_\_\_

5/17/91 date Sam [initials] Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

changes in CSA 272 have no fiscal impact. This fiscal note is appropriate.

May 15, 1991 date DR [initials] Comte Aide (initial)

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 18, 1991  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: April 18, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. \_\_\_\_\_

This bill amends AS 42.62.250 by changing the notice requirements for the adoption of emergency regulation to require that notice of adoption shall be made within five days after filing by the lieutenant governor, instead of within five days after adoption of emergency regulations. This change validates longstanding practice, and it is needed to conform to a recent court decision in Shepard v. State. Approval of the bill will not have a fiscal impact on the Department of Law.

FISCAL NOTE

No. 2  
 B. /ersion: SR 272  
 (S) Publish Date: 4/29/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: 4/17/91 Department Affected: Fish and Game  
 Title: Timely notice for emergency regulations BRU: All divisions  
 Component: All divisions  
 Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: No current year impact

ANALYSIS: (Attach a separate sheet if necessary) Changes in CSSB 272 (PLS) have no fiscal impact. This fiscal note is appropriate.  
 date 5/19/91 Comte Aide (initial) Tom by Tom

Changes in SR 272 have no fiscal impact. This fiscal note is appropriate.  
 date May 15, 91 Comte Aide (initial) W. Rain

Prepared By: McKie Campbell Phone: 465-4100  
 Division: Commissioner's Office Date: 4/17/91  
 Approved by Commissioner: Row Somerville Date: 4/17/91  
 Agency: Fish and Game

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 29, 1991

272

The Honorable Richard I. Eliason  
President of the Senate  
P.O. Box V  
Juneau, AK 99811

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the notice required for adoption of emergency regulations. This legislation is necessary as a result of a recent court decision, Shepherd v. State, 4FA-90-1514 Civil (March 19, 1991), which held that the process the state has utilized for the adoption of emergency regulations for several years is invalid. The purpose of this legislation is to validate longstanding practice, thereby permitting the state to continue using present practice.

Under AS 44.62.180, an emergency regulation adopted by an agency is submitted to the lieutenant governor, and takes effect upon filing by the lieutenant governor. AS 44.62.250 currently requires notice of the adoption of an emergency regulation to be published within 10 days after "adoption" of the regulation. If notice is not published within that time, the regulation is automatically repealed. The Department of Law has always taken the position that the term "adoption" in this section really refers to the regulation's "effective date," since there would be no point in publishing notice of an emergency regulation that was not in effect and might never take effect. Furthermore, the practical realities of the situation are that it is often impossible to finalize and file an emergency regulation, and ensure that notice of that action is published, within 10 days of a board's action on it.

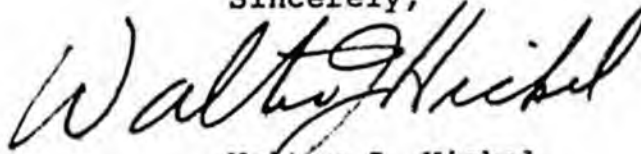
Nevertheless, the superior court held that irrespective of longstanding state practice, the time limits in AS 44.62.250

The Honorable Richard Eliason - 2 -

begin running immediately upon a board's taking a vote approving the adoption of an emergency regulation. This decision will cause serious problems for several boards, such as the Boards of Fish and Game, that frequently adopt emergency regulations.

This bill will validate existing practice and longstanding interpretations of the Department of Law with respect to the notice requirement for emergency regulations. I urge your support of this measure.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel". The signature is written in black ink and is positioned above the printed name and title.

Walter J. Hickel  
Governor

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

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

May 17, 1991

The Honorable Dave Donley  
Chair  
House Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 308 (Notice for Emergency  
Regulations)

Dear Rep. Donley:

This letter is to request your assistance in getting this important piece of legislation passed this session. The purpose of this bill is to validate long-standing state practice, which was recently held invalid by the Fairbanks Superior Court in Shepherd v. State, 4FA-90-1514 Civil. This bill was passed out of the House State Affairs Committee this morning; the same bill (with a different title) is currently in Senate Rules, and I anticipate that it will be scheduled for floor action in that body shortly. CSSB 272(RLS). Thus, the House Judiciary Committee is the only committee referral remaining for this legislation. I would therefore ask that you try to either schedule this bill for hearing in your committee as soon as possible or waive referral of this bill.

Enclosed for your reference is a copy of the transmittal letter that outlines the reason that this legislation is necessary. Representative Gruenberg is familiar with this bill and recognizes the importance of getting it passed this session.

I understand that Representative Gruenberg would like to offer an amendment to the bill to clearly indicate that the purpose of this legislation is to validate and affirm existing state practice, so that there can be no question of the validity of regulations currently existing on the books. I would certainly support such an amendment, and I have worked with Representative Gruenberg in preparing that amendment. However, because neither

Hon. Dave Donley, Chair, House Judiciary  
Re: HB 308

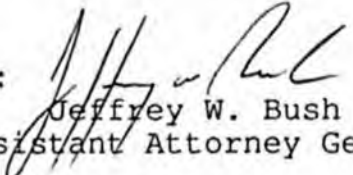
May 17, 1991  
Page 2

the bill nor the proposed amendment are controversial, there is no reason to delay either Judiciary Committee action on this bill or waiver of your committee referral.

Please contact me or Representative Gruenberg if we can offer you any further information with respect to this bill.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By:   
Jeffrey W. Bush  
Assistant Attorney General

JWB:cl

cc: Rep. Max Gruenberg

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

FILED  
STATE OF ALASKA  
91 MAR 19 PM 1:35  
CLERK, TRIAL COURTS  
BY \_\_\_\_\_ DEPUTY

PETE SHEPHERD and JIM BAILY, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 STATE OF ALASKA, Department of )  
 Fish and Game, and the Alaska )  
 Board of Game, )  
 )  
 Defendants. )

ATTORNEY GENERAL

MAR 20 1991

4TH JUDICIAL DISTRICT  
STATE OF ALASKA

Case No. 4FA-90-1514 Civil

MEMORANDUM DECISION AND ORDER

This matter comes before the court on cross-motions by plaintiffs and defendant for partial summary judgment on the issue of the validity of emergency regulations passed by the Board of Game at its July 23 - 25, 1990 meeting. For reasons discussed below, the court holds in favor of plaintiffs that the regulations were subject to the automatic repeal provisions of AS 44.62.250.

The facts related to this issue are undisputed. On July 18 and 19, 1990, the Alaska Board of Game ("Board") gave public notice that it would meet in emergency session beginning on July 25, 1990 "to adopt, amend or repeal" emergency hunting regulations in response to the changes brought about by the Alaska Supreme Court's decision in McDowell v. State, 785 P.2d 1

I certify that on 3-20-91  
copies of this order were sent to:  
CLERK: [Signature]

AG  
Hoigard.

(Alaska 1989).<sup>1</sup> The Board saw two main reasons for promulgating the emergency regulations. First, the regulations had to be changed so that all Alaskans, now eligible for subsistence use of wildlife resources under the McDowell case, would qualify for subsistence use under the regulations. Second, the regulations had to be amended in order to prevent overharvesting of wildlife during the fall 1990 hunting season because of the anticipated increase in the number of subsistence users as a result of the McDowell case.

From July 25 through July 27, 1990, the Board deliberated. On the last day of the meeting, the Board approved certain emergency regulations. These regulations are found in 5 AAC Sec. 82 and Sec. 92.

On August 9, 1990, Norman Cohen, the Deputy Commissioner for the Alaska Department of Fish and Game signed two documents: one entitled a "Finding of Emergency," which contained an "Adoption Order," and another entitled a "Notice of Adoption of Emergency Regulations." On the bottom of the "Finding of Emergency," Lieutenant Governor Stephen McAlpine certified that he filed "the attached regulations" in accordance with AS 44.62 on August 9, 1990.

Bob Larson, the Assistant Executive Director of the

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<sup>1</sup> In McDowell, the Alaska Supreme Court held that the rural preference provision of the 1986 Alaska subsistence law violated article VIII of the Alaska Constitution.

Division of Boards of the Alaska Department of Fish and Game ("ADF&G") stated that "it has always been the practice of the Department to wait until after a board meeting to prepare the adoption order and the notice of adoption of regulations." Larson asserts that pursuant to the "Alaska Board of Game Delegation of Authority to Adopt Emergency Regulations, #87-42C-GB," dated November 18, 1987, ADF&G has the authority to put proposals adopted by the Board, (drafted in general, conceptual language), into actual regulatory language and to make any technical corrections necessary to carry out the Board's action and intent.

The State provides several Affidavits of Publication to show when the "Notice of Adoption of Emergency Regulations" was published. According to these affidavits, the Notice was published on August 13, 1990 in the Anchorage Daily News, and in the Juneau Empire; on August 14, 1990, in the Fairbanks Daily News Miner; and on August 17, 1990, in the All Alaska Weekly. The parties agree that the "Department of Fish and Game Notice of Adoption of Emergency Publication," was first published in the Alaska Administrative Journal on August 20, 1990. Finally, the State submits an Affidavit of Notice of Adoption of Regulations signed by Warren Wiley, the Assistant Commissioner of the Department of Fish and Game, on August 23, 1990, confirming that the "Notice of Adoption of Emergency Regulations" was published

Shepherd v. State  
4PA-90-1514 Civil  
MD&O

in the Anchorage Daily News, the Juneau Empire, the All Alaska Weekly, and the Fairbanks Daily News Miner.

Based on these undisputed facts, the issue involved in this aspect of the case turns on the meaning of "adoption." If, as plaintiffs suggest, the regulations were "adopted" by the Board of Game on July 25, 1990, the Department failed to give the required notice by the end of the tenth day following the adoption. Such failure, according to the explicit terms of AS 44.62.250, "automatically repeals the regulation." If, as defendant suggests, "adoption" means the formal promulgation of the written findings and "order of adoption" by the Deputy Commissioner of ADF&G, notice was given by the end of the tenth day.<sup>2</sup>

AS 44.62.250 provides:

A regulation or order of repeal may be adopted as an emergency regulation or order of repeal if a state agency makes a written finding, including a statement of the facts that constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The requirements of AS 44.62.060 and 44.62.190 - 44.62.210 do not apply to the initial adoption of emergency regulations; nowever, upon adoption of an emergency regulation

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<sup>2</sup> The Deputy Commissioner of ADF&G entered the written finding and order of adoption on August 9, 1990. The final act of notice was the publication in the Alaska Administrative Journal on August 20, 1990. This act occurred within ten days of the Deputy Commissioner's order since the tenth day, August 19, fell on a Sunday. See AS 01.10.080 (where the last day is a holiday, that day is not counted).

the adopting agency shall immediately submit a copy of it to the lieutenant governor for filing and for publication in the Alaska Administrative Register, and within five days after adoption the agency shall give notice of the adoption in accordance with AS 44.62.190(a). Failure to give the required notice by the end of the 10th day automatically repeals the regulation.

In order to interpret the word "adoption" in AS 44.62.250, the "plain meaning" of the word "adoption" must be ascertained. The Alaska Administrative Procedures Act, AS 44.62.010 does not include a definition of the term "adoption." Unless the legislative intent is to the contrary,<sup>3</sup> where the legislature uses a word or phrase without defining it, and where there is no established judicial construction of the word, the court should assume that the legislature intended the phrase to have its common, ordinary meaning. See Wilson v. Municipality of

<sup>3</sup> There is little available legislative history on AS 44.62.250. In 1972, the "public notice" portion of AS 44.62.25 was added. 1972 House Journal ch. 46. The only potentially significant comment was the report made by Judiciary Committee on March 16, 1972:

The concern which caused referral back to the judiciary committee was the possible effect of the bill on the Department of Fish and Game and that after checking with that department, it was found that the bill would not unduly interfere with activities and the department in fact supports the bill in the present form.

William J. Moran  
Chairman.

1972 House Journal 512-513. If anything, this legislative history indicates that the Board and the ADF&G agreed to comply with the new public notice requirements for emergency regulations.

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Anchorage, 669 P.2d 569, 571-572 (Alaska 1983); Lambert v. State, 694 P.2d 791, 793 (Alaska App. 1985). Commonly, the court turns to the dictionary as a source to determine what the legislature intended in using a word. See, e.g., Michael v. State, 767 P.2d 193, 197 (Alaska App. 1988).

Black's Law Dictionary (5th ed.) defines the verb to "adopt" as follows:

To accept, appropriate, chose or select. To make that one's own (property or act) which was not so originally. To accept to, consent to and put into effective operation; as in the case of a constitution, constitutional amendment, ordinance, court rule or by-law.

Black's Law Dictionary, at 45 (5th ed. 1979).

It is undisputed that the Board was exercising its general rulemaking authority found in 16.05.255<sup>4</sup> when it passed the emergency regulations on July 25, 1990. While the Board may delegate,<sup>5</sup> (and in this case has apparently delegated), some of its rulemaking authority to the Commissioner of ADF&G, there is no indication that the emergency regulations in question were promulgated by the Commissioner of ADF&G. Rather, the

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<sup>4</sup> AS 16.05.255(a) provides, in pertinent part: "The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) . . ." The statute goes on to denote the specific types of Board regulation.

<sup>5</sup> AS 16.05.270 states, in pertinent part: "For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf."

involvement of Deputy Commissioner Cohen was limited to formalizing the emergency regulations previously approved by the Board on July 25, 1990. As such, it appears that the Board "adopted" the emergency regulations within the ordinary meaning of that word.

Courts in other jurisdictions have ruled that the word "adoption" is synonymous with the word "passage."

In Town of Sheboygan v. City of Sheboygan, 441 N.W.2d 752, 753 (Wis. App. 1989), the plaintiff brought an action challenging the municipality's annexation of certain territory. The sole issue on appeal was whether the action, filed 92 days after the annexation ordinance was passed, was barred under a statute of limitations which mandated that an be "brought within 90 days after the adoption of the order, annexation ordinance or final determination of the action contested." Id. The town argued that the language of the statute indicated that the statute of limitations began to run only when the ordinance became "'final,' i.e., approved and published." Id.

Based upon the language of the statute, other similar statutes, legislative history and caselaw in other jurisdictions, the Wisconsin Court of Appeals held:

. . . the usage of the term "adoption" in context, unambiguously refers to the action of the legislative body in voting to approve the ordinance. It does not refer to the approval of the ordinance by the mayor, the publishing of the ordinance or its effective date.

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Sheboygan, 441 N.W.2d at 754. The Court also noted that it had found no authority which interpreted "adopt" in the manner urged by the Town.

Other cases support this interpretation of adoption. In Gleason v. City of Santa Monica, 24 Cal. Rptr. 656, 657-658 (2nd Dist. App. 1962), and in In Re Appeal of Mortimer, 112 A.2d 151, 153 (Pa. 1955), the courts construed the date of "adoption," to mean the date of passage of the ordinance instead of the effective date of the ordinance. In Agrico Chemical Co. v. State, 365 So.2d 759, 764-766 (Fla. App. 1979), the Florida Court of Appeals held that the Florida Environmental Commission's approval of a proposed rule constituted an "adoption" within the meaning of the Florida Administrative Procedure Act provision which stated that "No rule . . . shall be adopted . . . until the hearing officer had rendered his decision."

In the case at bar, the State is arguing that adoption did not take place when the Board passed the emergency regulations, but rather, when the Deputy Commissioner of ADF&G signed the written "Finding of Emergency" and "Adoption Order." This argument is similar to those made by the losing parties in the cases noted above.

Given the plain meaning of AS 44.62.250, as supported by the caselaw from other jurisdictions, the court concludes that the term "adoption" means approval of emergency regulations by

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the Board. It is undisputed that the Board deliberated and decided upon certain emergency regulations on July 25, 1990. Consequently, the court finds that the Board "adopted" those regulations on July 25, 1990. Since the Notice of Adoption of Emergency Regulations was published in the various Alaska newspapers and in the Alaska Administrative Journal after August 3, 1990, the court concludes that the Board's Notice of Adoption of Emergency Regulations was untimely, resulting in the repeal of the emergency regulations by operation of law pursuant to AS 44.62.250.<sup>6</sup>

For reasons set forth above,

IT IS HEREBY ORDERED that plaintiffs' motion for

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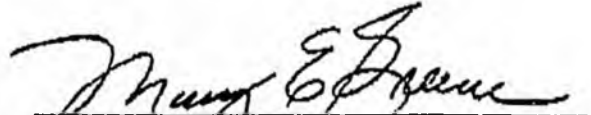
<sup>6</sup> The State makes two arguments in support of its interpretation of the facts in this case. First, the State argues that implicit in AS 44.62.250 is the idea that adoption only occurs once the agency adopting the emergency regulation makes a written finding which includes both a statement of facts and a finding of necessity. However, the statute does not specifically require that the finding of emergency be put into writing before the emergency regulations are adopted by the Board. In this case, the emergency regulations were adopted and the finding of the emergency was formally reduced to writing afterwards. So long as the Board considered the facts constituting the emergency, the court concludes that putting such facts into writing is a ministerial function. The second argument made by the state is that the deputy commissioner "in adopting" the regulations was acting under the proper delegation of authority from the Board of Game. The court has examined document number 87-42A-GB, the Board of Game's delegation of authority to adopt emergency regulations. This delegation is clearly not intended to cover the situation involved in this action. The delegation is addressed to commissioner authority to promulgate regulations when the Board cannot meet, not when it has already met.

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4FA-90-1514 Civil  
MD&O

partial summary judgment is granted.

IT IS FURTHER ORDERED that defendant's cross-motion for partial summary judgment is denied.

DATED at Fairbanks, Alaska this 18th day of March, 1991.

  
\_\_\_\_\_  
MARY E. GREENE  
Superior Court Judge

S B

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STATE OF ALASKA  
91 LEGISLATIVE SESSION

Bill Version: SB 283

(S) Publish Date: 5/19/91

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
Title: An Act relating to the inheritance and transfer of stock in corporation under ANCSA BRAU: Banking, Securities & Corporations  
Sponsor: Sen. Adams Component: Financial Institutions  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. [ ] [ ] [ ] [ ]

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

Funding: (Thousands of Dollars)

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

Positions:

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

Estimated of current year impact: None

Changes in CSSB 283 (Jud) have no fiscal impact. This fiscal note is appropriate.  
May 19, 91 date of change in  
OSB (initial)  
Comte Aide (initial)

Analysis: (Attach a separate page if necessary.)

CSSB 283 delays probate provision of Native (ANCSA) corporation stock upon death of a shareholder until June 30, 1992.

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521  
Division: Banking, Securities & Corporations Date: 5/15/91  
Approved by Commissioner: Glenn A. Olds  
Agency: Department of Commerce & Economic Development Date: 5/15/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CSB 283

The proposed substitute to SB 283 replaces the existing language of the bill with a simple amendment which extends the December 18, 1991, deadline in AS 13.11.012 and AS 13.16.705 until June 30, 1992. The purpose of this extension is to preserve the status quo for another year to allow the Legislature to take a more detailed look at the revisions proposed in the original bill.

AS 13.11.012 and AS 13.16.705 are statutes which were passed by the Legislature shortly after Congress passed the Alaska Native Claims Settlement Act in 1971. Their purpose was to reconcile state law with federal law, and to simplify the procedure for transferring ANCSA stock when a shareholder died.

Absent special legislation, ANCSA stock would be treated as an asset of the deceased, and subject to the probate laws of Alaska, if the deceased resided in Alaska when he died, or, if not, to the laws of whatever state the shareholder resided in at his death. AS 13.16.705 establishes Alaska as the situs for all Native Corporation stock, making Alaska law the applicable law. It also sets out a special procedure for transferring ANCSA stock. Instead of the stock passing through probate, the regional corporation determines who the heirs of the stock should be on the basis of affidavits submitted by the heirs. As long as the corporation transfers the stock on the basis of the affidavits, it is protected from liability. Any person who believes the stock was wrongfully transferred is entitled to bring an action in Superior Court to determine the rightful heirs to the stock. This is the same procedure which the Legislature has adopted for small estates, and it ensures that the stock can be transferred without a great deal of time or expense while at the same time protecting the rights of the individual heirs.

AS 13.11.012 establishes the surviving spouse's share of ANCSA stock if the deceased died intestate (without a will). Absent this provision, the surviving spouse's share would be determined on the basis of the value of the entire estate, including the ANCSA stock. This would require the estate to value Native Corporation stock. AS 13.11.012 eliminates this need for valuation by providing that the surviving spouse is entitled to a portion of the ANCSA stock.

ANCSA, as originally enacted in 1971, provided that all ANCSA corporation stock was inalienable until December 18, 1991. After that date, the stock would be transferable. AS 13.11.012 and AS 13.16.705 were written to expire on December 18, 1991 to coincide with ANCSA.

The special state legislation is necessary because it is difficult, if not impossible, to value ANCSA stock. Because the stock is inalienable, it cannot be bought, sold, pledged as security for a debt, or otherwise transferred, except in very limited circumstances. The stock therefore has no market value. Nor can the true value of Native Corporation stock be determined by reference to the financial statements of the corporation. Although the land is the major asset of many corporations, most have yet to receive all of the land they are entitled to under ANCSA. In addition, because of the speculative value of much of the land and certain accounting conventions, most of the Native Corporations assign no value to the land for financial statement purposes. Thus, the financial statements of most Native Corporations do not necessarily reflect the true value of the corporation.

AS 13.11.012 and AS 13.16.705 eliminated the need to make these difficult valuations, and established a simple procedure for the transfer of stock, thereby eliminating the need for costly lawyers and accountants.

In 1987 congress amended ANCSA. Basic ANCSA stock, now called "Settlement Common Stock", will remain inalienable indefinitely, until the shareholders vote to make the stock transferable. In addition, Native Corporations are given certain

opportunities to issue additional stock, both alienable and inalienable.

In order to make AS 13.11.012 and AS 13.16.705 conform to the revisions of ANCSA, as well as to take care of certain other needed changes, SB 283 was introduced. The Committee was concerned, however, that there was insufficient time remaining in the session to thoroughly consider all of its provisions.

The proposed amendment will preserve the status quo for an additional year to allow the Legislature time next session to consider all the revisions that are necessary. Without the amendment, the estates of those individuals who die after December 18, 1991 would be subject to probate, and could require expensive and time-consuming determinations of the value of ANCSA stock. In addition, certain individuals could acquire vested rights, preventing future legislation from being retroactive, and resulting in disparate treatment of ANCSA heirs.

The proposed amendment affects only stock issued by ANCSA corporations. It will have no effect upon any other stock or any asset of any Native other than ANCSA corporation stock.

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Date Referred: March 30, 1992

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Finance

Date of Committee Action: 5-5-92

The JUDICIARY Committee considered:

CSSB 337(FIN)

CS FOR SENATE BILL NO. 337 (FINANCE)

RETIREMENT INCENTIVE PROGRAM

"An Act relating to retirement incentive programs for the public employees' retirement system, the teachers' retirement system and certain persons under the judicial retirement system; and providing for an effective date."

- RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title  
 [ ] have attached amendments(s)  
 do pass  
 [ ] do not pass  
 [ ] no recommendations  
 [ ] individual recommendations  
 [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_  
 [ ] fiscal impact \_\_\_\_\_  
 [ ] zero fiscal note \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) ~~Admin Ref B~~ Admin Ref B 3-30-92  
 zero fiscal note(s) Courts 1-31-92

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mark Humber</i>	<input checked="" type="checkbox"/>	<i>Dave Donley</i>		X	
<i>Kevin Paul Park</i>	<input checked="" type="checkbox"/>	<i>Larry Mathis</i>		<input checked="" type="checkbox"/>	
<i>John G. ...</i>	<input checked="" type="checkbox"/>				

*Dave Donley*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 6

Bill Version: CSSB 337 (FIN)

(H) Publish Date: 3-30-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act relating to retirement incentive programs for the Public Employees' and Teachers' Retirement System  
Sponsor: Duncan  
Requestor: Senate Finance Committee

Department Affected: Administration  
BRU: Retirement and Benefits

Component: Retirement and Benefits

COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	658.0	598.3	277.5	277.5	277.5	277.5
TRAVEL	3.0	3.0	1.0	1.0	1.0	1.0
CONTRACTUAL	20.0	33	0	0	0	0
SUPPLIES	3.0	25	1.0	1.0	1.0	1.0
EQUIPMENT	112.3	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	796.3	607.1	279.5	279.5	279.5	279.5

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	796.3	607.1	279.5	279.5	279.5	279.5
TOTAL	796.3	607.1	279.5	279.5	279.5	279.5

POSITIONS

FULL-TIME:	6	6	6	6	6	6
PART-TIME:	0	0	0	0	0	0
TEMPORARY:	10	9	0	0	0	0

Estimate of current year impact: We anticipate the need for a Legislative Revised Program to increase our FY 92 authorization, thus allowing the division to hire the FY 93 staff prior to July 1, 1992. The FY 92 hiring would be needed so that we can properly train the RIP staff prior to the opening of the window periods. These costs would be paid for by participating employers.

ANALYSIS: (attach a separate page if necessary.) The actuarial costs to participating employers due to this program are to be paid up front and no additional costs to the systems are anticipated.

Prepared By: Gary Bader *Gary M. Bader*  
Division: Retirement and Benefits

Phone: 465-4460

Date: February 25, 1992

Approved by Commissioner: Nancy Bear Usera *Nancy Bear Usera*  
Agency: Department of Administration

Date: 3/5/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).

Rev 10/90

Page 1 of 4

COMMITTEE COPY

( ) CSSB 337 (FIN)  
No. 6

Finance Committee Substitute for Senate Bill 337  
Analysis of Fiscal Implications to the Retirement Fund  
Prepared by Division of Retirement & Benefits  
Department of Administration  
February 25, 1992

Analysis: This bill would place a temporary retirement incentive provision in statute for the Public Employees' (PERS) and Teachers' (TRS) Retirement Systems. Active PERS and TRS members could retire on an accelerated basis with an increased benefit under the following conditions: at age 47, if vested; with 17 years of service as a qualified peace officer, fire fighter or teacher; or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their life time benefit for the indebtedness amount.

We estimate that five permanent full-time positions will be needed in Juneau and one in Anchorage to administer the increased demand for information and services resulting from adding potentially over 4000 new retirees to the PERS and TRS, resulting from prior RIPS and projected for this one. In addition, we estimate that ten long term non-permanent employees will also be needed for varying lengths of time over the next two fiscal years. Personnel will handle increased counseling, address and beneficiary changes, account maintenance, and other services.

We estimate that we will need to increase our normal number of counseling trips by 5 trips over the next two fiscal years to assure that members understand the options and requirements of the program.

Finance Committee Substitute for Senate Bill 337  
Analysis of Fiscal Implications to the Retirement Fund  
Prepared by Division of Retirement & Benefits  
Department of Administration  
February 25, 1992

The total estimated administrative cost to the division by fiscal year is as follows:

	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>
<b>PERSONAL SERVICES</b>			
<b>FY 93</b>			
2 Retirement Specialist I/II	104.5		
8 Retirement Technician I/II	338.2		
1 Accountant I	46.1		
3 Accounting Clerk III (12 months)	104.0		
2 Clerk II (12 months)	<u>65.2</u>		
Total FY 93 Personal Services Cost.....			\$658.0
<b>FY 94</b>			
2 Retirement Specialist I/II	104.5		
5 Retirement Technician I/II	211.4		
3 Retirement Technician I/II ( 9 mon.)	95.1		
1 Accountant I	46.1		
2 Accounting Clerk III (12 months)	76.0		
2 Clerk II (12 months)	<u>65.2</u>		
Total FY 94 Personal Services Cost.....		\$598.3	
<b>FY 95</b>			
2 Retirement Specialist I/II	104.5		
3 Retirement Technician I/II	126.9		
1 Accountant I	<u>46.1</u>		
Personal Services Cost (FY 95 and beyond)			\$277.5

**TRAVEL**

Traveling to various locations throughout the state to counsel prospective retirees and give seminars .....

3.0	3.0	1.0
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**CONTRACTUAL**

**FY 93**

Computer services for additional PC's	16.5		
Additional telephone costs (4 add phones)	.2		
Telephone service for 4 phones	.8		
Long distance call expense based upon previous RIP	<u>2.5</u>		
FY 93 contractual costs.....		20.0	

CSSB337(FIN)  
No. 6

Finance Committee Substitute for Senate Bill, 337  
Analysis of Fiscal Implications to the Retirement Fund  
Prepared by Division of Retirement & Benefits  
Department of Administration  
February 25, 1992

	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>
<b>CONTRACTUAL</b>			
FY 94			
Telephone service for 4 phones	.8		
Long distance call expense based upon previous RIP	2.5		
FY 94 contractual costs.....		3.3	1.0
<b>SUPPLIES</b>			
Office supplies, calculators cost. ....	3.0	2.5	
<b>EQUIPMENT</b>			
5 Work stations	23.0		
5 Chairs	1.5		
5 PCs and other office equipment	30.0		
Other office equipment (Dictaphone, calculators, etc.)	5.0		
1 File cabinets	.3		
5 Phones (600/instrument)	3.0		
5 Personal Computers	27.5		
5 Microfiche viewers	4.0		
1 Computer Output Printer	18.0		
Total Equipment cost.....	<u>112.3</u>	<u>-0-</u>	<u>-0-</u>
<b>TOTAL Operations Cost</b>	<u>\$796.3</u>	<u>\$607.1</u>	<u>\$279.5</u>

The retirement technicians, retirement specialists, accountant, and accounting clerks need constant access to the PERS and TRS computer files. We don not have any excess terminals, microfiche viewers or calculators. Our equipment request will satisfy our equipment needs for the duration of this program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's Local Area Network.

We are also proposing the purchase of an additional computer output printer. the previous RIP's put great demand on our existing two printers and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing a printer for two years, coupled with our existing needs, purchasing a new printer would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

The Other Funds are comprised of PERS at \$438.0 and the TRS at \$358.3 for FY 93.

No. 1  
 Bill Version: SB 337  
 (S) Publish Date: 1-31-92

**FISCAL NOTE**

**STATE OF ALASKA  
 1992 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to retirement BRU: Trial Courts  
incentive programs... Components: \_\_\_\_\_  
 Sponsor: Duncan  
 Requestor: State Affairs COMPONENT SERIAL NO. 000 | 000 000 | 768

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS:	Changes in <u>CSB 337 (Fin)</u> have no fiscal impact. This fiscal note is appropriate.	Changes in <u>CSB 337 (STA)</u> have no fiscal impact. This fiscal note is appropriate.
	<u>2-25-92</u> date <u>sh</u> Comte Aide (initial)	<u>1-30-92</u> date <u>Shane Ly Clark</u> Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 01/21/92

Approved by: Arthur H. Snowden, II, Administrative Director Date: 01/21/92  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

4

Bill Version: CSSB 337 (STA)

(S) Publish Date: 1-31-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act relating to retirement incentive programs for the Public Employees' and Teachers' Retirement System  
Sponsor: Duncan  
Requestor: Senate State Affairs Committee

Department Affected: Administration  
BRU: Retirement and Benefits

Component: Retirement and Benefits

COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	658.0	598.3	277.5	277.5	277.5	277.5
TRAVEL	3.0	3.0	1.0	1.0	1.0	1.0
CONTRACTUAL	20.0	33	0	0	0	0
SUPPLIES	3.0	25	1.0	1.0	1.0	1.0
EQUIPMENT	1123	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	796.3	607.1	279.5	279.5	279.5	279.5

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	796.3	607.1	279.5	279.5	279.5	279.5
TOTAL	796.3	607.1	279.5	279.5	279.5	279.5

POSITIONS

FULL-TIME:	6	6	6	6	6	6
PART-TIME:	0	0	0	0	0	0
TEMPORARY:	10	9	0	0	0	0

Estimate of current year impact: We anticipate the need for a Legislative Revised Program to increase our FY 92 authorization, thus allowing the division to hire the FY 93 staff prior to July 1, 1992. The FY 92 hiring would be needed so that we can properly train the RIP staff prior to the opening of the window periods. These costs would be paid for by participating employers.

ANALYSIS: (attach a separate page if necessary.) The actuarial costs to participating employers due to this program are to be paid up front and no additional costs to the systems are anticipated.

Prepared By: Gary Bader  
Division: Retirement and Benefits

Phone: 465-4460  
Date: January 29, 1992

Approved by Commissioner: Nancy Bear Usara  
Agency: Department of Administration

Date: 1/30/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
Rev 10/90

Page 1 of 49

Changes in CSSB 337 (Fin)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.

2-25-92  
date Comte Aide (Initial)

CSSB 337 (SA)  
Analysis of Fiscal Implications to the Retirement Fund  
Prepared by Division of Retirement & Benefits  
Department of Administration  
January 29, 1992

Analysis: This bill would place a temporary retirement incentive provision in statute for the Public Employees' (PERS) and Teachers' (TRS) Retirement Systems. Active PERS and TRS members could retire on an accelerated basis with an increased benefit under the following conditions: at age 47, if vested; with 17 years of service as a qualified peace officer, fire fighter or teacher; or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their life time benefit for the indebtedness amount.

We estimate that five permanent full-time positions will be needed in Juneau and one in Anchorage to administer the increased demand for information and services resulting from adding potentially over 4000 new retirees to the PERS and TRS, resulting from prior RIPs and projected for this one. In addition, we estimate that ten long term non-permanent employees will also be needed for varying lengths of time over the next two fiscal years. Personnel will handle increased counseling, address and beneficiary changes, account maintenance, and other services.

We estimate that we will need to increase our normal number of counseling trips by 5 trips over the next two fiscal years to assure that members understand the options and requirements of the program.

CSSB 337 (SA)  
 Analysis of Fiscal Implications to the Retirement Fund  
 Prepared by Division of Retirement & Benefits  
 Department of Administration  
 January 29, 1992

The total estimated administrative cost to the division by fiscal year is as follows:

	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>
<b>PERSONAL SERVICES</b>			
<b>FY 93</b>			
2 Retirement Specialist I/II	104.5		
8 Retirement Technician I/II	338.2		
1 Accountant I	46.1		
3 Accounting Clerk III (12 months)	104.0		
2 Clerk II (12 months)	<u>65.2</u>		
Total FY 93 Personal Services Cost.....	\$658.0		
<b>FY 94</b>			
2 Retirement Specialist I/II	104.5		
5 Retirement Technician I/II	211.4		
3 Retirement Technician I/II ( 9 mon.)	95.1		
1 Accountant I	46.1		
2 Accounting Clerk III (12 months)	76.0		
2 Clerk II (12 months)	<u>65.2</u>		
Total FY 94 Personal Services Cost.....		\$598.3	
<b>FY 95</b>			
2 Retirement Specialist I/II	104.5		
3 Retirement Technician I/II	126.9		
1 Accountant I	<u>46.1</u>		
Personal Services Cost (FY 95 and beyond)			\$277.5

**TRAVEL**

Traveling to various locations throughout the state to counsel prospective retirees and give seminars .....	3.0	3.0	
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**CONTRACTUAL**

<b>FY 93</b>			
Computer services for additional PC's	16.5		
Additional telephone costs (4 add phones)	.2		
Telephone service for 4 phones	.8		
Long distance call expense based upon previous RIP	<u>2.5</u>		
FY 93 contractual costs.....		20.0	

CSSB 337 (SA)  
 Analysis of Fiscal Implications to the Retirement Fund  
 Prepared by Division of Retirement & Benefits  
 Department of Administration  
 January 29, 1992

	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>
<b>CONTRACTUAL</b>			
FY 94			
Telephone service for 4 phones	.8		
Long distance call expense based upon previous RIP	<u>2.5</u>		
FY 94 contractual costs.....		3.3	
<b>SUPPLIES</b>			
Office supplies, calculators cost. ....	3.0	2.5	
<b>EQUIPMENT</b>			
5 Work stations	23.0		
5 Chairs	1.5		
5 PCs and other office equipment	30.0		
Other office equipment (Dictaphone, calculators, etc.)	5.0		
1 File cabinets	.3		
5 Phones (600/instrument)	3.0		
5 Personal Computers	27.5		
5 Microfiche viewers	4.0		
1 Computer Output Printer	18.0		
Total Equipment cost. ....	<u>112.3</u>	<u>-0-</u>	<u>-0-</u>
<b>TOTAL Operations Cost</b>	<u>\$796.3</u>	<u>\$607.1</u>	<u>\$279.5</u>

The retirement technicians, retirement specialists, accountant, and accounting clerks need constant access to the PERS and TRS computer files. We do not have any excess terminals, microfiche viewers or calculators. Our equipment request will satisfy our equipment needs for the duration of this program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's Local Area Network.

We are also proposing the purchase of an additional computer output printer. The previous RIP's put great demand on our existing two printers and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing a printer for two years, coupled with our existing needs, purchasing a new printer would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

The Other Funds are comprised of PERS at \$438.0 and the TRS at \$358.3 for FY 93.

Position Title <b>RETIREMENT &amp; BENEFITS SPECIALIST I/II</b>		No. of Positions <b>2</b>	Range/Step <b>16/A</b>	Org. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months: <b>2 x 12 = 24</b>	Location: <b>1-Juneau/AWA 1-Anchorage/EBA</b>		Election District <b>4,7</b>
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		
Salary	<b>73.9</b>	Justification <b>CSSB 337 (SA)</b>  The Retirement & Benefit Specialists will train, direct, and supervise the daily activities of the eight additional retirement technicians. They will also be responsible for maintaining a listing of all employees who elect to participate in the RIP and a listing of all employees who are eligible to retire under the RIP. They will also be required to prepare data necessary to calculate actual cost billing information to participating employers.  The Retirement & Benefit Specialists will be available to counsel persons who are interested and eligible to retire under the RIP.		
Benefits	<b>30.7</b>			
Premium Pay				
Other				
<b>TOTAL PERSONAL SERVICES:</b>	<b>104.5</b>			
Travel	<b>3.0</b>			
Contractual	<b>3.4</b>			
Supplies	<b>0.6</b>			
Equipment	<b>18.8</b>			
Other				
<b>TOTAL COST:</b>	<b>130.3</b>			
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	<b>1002</b>			
G.F. Match	<b>1003</b>			
General Fund	<b>1004</b>			
I-A Receipts	<b>1007</b>			
CIP Receipts	<b>1001</b>			
Other	<b>1029 PERS</b>	<b>71.7</b>		
	<b>1034 TRS</b>	<b>58.6</b>		

**Request For  
New Position**

AGENCY ADMINISTRATION  
 DRU RETIREMENT & BENEFITS  
 COMPONENT RETIREMENT & BENEFITS

**FY 93**

Page 1 of 5  
 Revised Date:

579

Position Title <b>RETIREMENT &amp; BENEFITS TECHNICIAN I/II</b>		No. of Positions <b>8</b>	Range/Step <b>12/B</b>	Org. Unit <b>GGU</b>
Time Status <b>3-PFT, 5-Temporary</b>	Staff Months: <b>8 x 12 = 96</b>	Location: <b>JUNEAU/AWA</b>		Election District <b>4</b>
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		<b>234.0</b>		
Benefits		<b>104.2</b>		
Premium Pay				
Other				
<b>TOTAL PERSONAL SERVICES:</b>			<b>338.2</b>	
Travel				
Contractual			<b>11.0</b>	
Supplies			<b>1.0</b>	
Equipment			<b>68.9</b>	
Other				
<b>TOTAL COST:</b>			<b>419.1</b>	
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	<b>1002</b>			
G.F. Match	<b>1003</b>			
General Fund	<b>1004</b>			
I-A Receipts	<b>1007</b>			
CIP Receipts	<b>1061</b>			
Other	<b>1029 PERS</b>		<b>230.5</b>	
	<b>1034 TRS</b>		<b>188.6</b>	
Justification <b>CSSB 337 (SA)</b>				
The Retirement and Benefit Technicians staff will be needed to assist our current permanent staff to; research member files, prepare benefit projections for prospective retirees, process retirement applications and establish benefits, add service that members are eligible to purchase and respond to many inquires that the division will receive during the concentrated window period of the program.				

**Request For  
New Position**

AGENCY ADMINISTRATION  
 BRU RETIREMENT & BENEFITS  
 COMPONENT RETIREMENT & BENEFITS

**FY 93**

Page 2 of 5  
 Revised Date:

6099

Position Title <b>ACCOUNTANT I</b>		No. of Positions <b>1</b>	Range/Step <b>14/A</b>	Borg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months: <b>12</b>	Location: <b>JUNEAU/AWA</b>		Election District <b>4</b>
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		32.2		
Benefits		14.0		
Premium Pay				
Other				
<b>TOTAL PERSONAL SERVICES:</b>		<b>46.1</b>		
Travel				
Contractual		1.5		
Supplies		0.6		
Equipment		12.5		
Other				
<b>TOTAL COST:</b>		<b>60.7</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts		1002		
O.F. Match		1003		
General Fund		1004		
I-A Receipts		1007		
CIP Receipts		1081		
Other 1029 PERS		33.4		
1034 TRS		27.3		
Justification <b>CSSB 337 (SA)</b>				
An Accountant I will monitor and review RIP contracts between employers and the Division to insure receipt of RIP related funds. Book receivables as year and adjustments. Establish coding system in AKSAS to track receivables, payments, interest calculations, and balances due for each district participating in the RIP.				
Process Reimbursable Services Agreements (RSA) transactions for state agencies participating in the RIP. Transfer RSA payments to proper fund equity account in each fund. Reconcile RIP tracking system using PC to AKSAS on monthly basis. Provide Accountant III with final adjusted financial data to be used in quarterly financial statements of the pension funds. Provide financial reports and analyses to management.				
Calculate interest for each district based on balances due and terms set out in contracts, and bill each district for balances due and interest charged. Work with independent audit team on all RIP related questions. Analyze complex financial data to respond to auditors questions.				

**Request For  
New Position**

AGENCY ADMINISTRATION  
 BRU RETIREMENT & BENEFITS  
 COMPONENT RETIREMENT & BENEFITS

**FY 93**

Page 3 of 5  
 Revised Date:

7079

Position Title <b>ACCOUNTING CLERK III</b>		No. of Positions <b>3</b>	Range/Step <b>10/A</b>	Barg. Unit <b>GGU</b>
Time Status <b>Temporary</b>	Staff Months: <b>3 x 12 = 36</b>	Location: <b>JUNEAU/AWA</b>		Election District <b>4</b>
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		
Salary		<b>70.5</b>		
Benefits		<b>33.5</b>		
Premium Pay				
Other				
<b>TOTAL PERSONAL SERVICES:</b>			<b>104.0</b>	
Travel				
Contractual			<b>3.4</b>	
Supplies			<b>0.6</b>	
Equipment			<b>11.5</b>	
Other				
<b>TOTAL COST:</b>			<b>119.5</b>	
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	<b>1002</b>			
G.F. Match	<b>1003</b>			
General Fund	<b>1004</b>			
I-A Receipts	<b>1007</b>			
CIP Receipts	<b>1081</b>			
Other	<b>1029 PERS</b>		<b>65.7</b>	
	<b>1034 TRS</b>		<b>53.8</b>	
Justification <b>CSSB 337 (SA)</b>				
Accounting Clerk III positions will handle the additional accounting duties related to a Retirement Incentive Program (RIP) as follows: member file research, file maintenance, including entering indebtedness, history, and retirement segments into the appropriate system; verification of system output, any adjusting vouchers that are necessary in AKSAS, assisting with the deposits and coding of member indebtedness payments and employer RIP payments, assisting with the member account information that is needed in completing tax excludable statements for the Retirement Section, and any follow through that becomes necessary.				

**Request For  
New Position**

AGENCY ADMINISTRATION  
 DRU RETIREMENT & BENEFITS  
 COMPONENT RETIREMENT & BENEFITS

**FY 93**

Page **4** of **5**  
 Revised Date:

8079

Position Title <b>CLERK II</b>		No. of Positions <b>2</b>	Range/Step <b>7/B</b>	Barg. Unit <b>GGU</b>
Time Status <b>Temporary</b>	Staff Months: <b>2 x 12 = 24</b>	Location: <b>JUNEAU/AWA</b>		Election District <b>4</b>
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		
Salary	<b>44.2</b>	Justification <b>CSSB 337 (SA)</b>  Clerk II positions are required in the divisions microfiche center for the day-to-day file/recordkeeping duties for the new retirees under the RIP. Duties include: sanitizing and purging files, creating new microfiche files for these retirees from paper documents, creating duplicate microfiche files when requested for the use of division personnel, and filing and refiling all documents.  Many calculations affecting members' retirement accounts depend on the files being accurate and up-to-date.		
Benefits	<b>21.0</b>			
Premium Pay				
Other				
<b>TOTAL PERSONAL SERVICES:</b>	<b>65.2</b>			
Travel				
Contractual	<b>0.7</b>			
Supplies	<b>0.2</b>			
Equipment	<b>0.6</b>			
Other				
<b>TOTAL COST:</b>		<b>66.7</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	<b>1002</b>			
O.F. Match	<b>1003</b>			
General Fund	<b>1004</b>			
I-A Receipts	<b>1007</b>			
CIP Receipts	<b>1081</b>			
Other	<b>1029 PERS</b>	<b>36.7</b>		
	<b>1034 TRS</b>	<b>30.0</b>		

**Request For  
New Position**

AGENCY ADMINISTRATION  
 BRU RETIREMENT & BENEFITS  
 COMPONENT RETIREMENT & BENEFITS

**FY 93**

Page **5** of **5**  
 Revised Date:

9079

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

5  
Bill Version: SSB 337 (STA)  
(S) Publish Date: 1-31-92

Revision Date: \_\_\_\_\_  
Title: "An Act relating to retirement incentive programs . . . effective date."  
Sponsor: Duncan, Kerttula, Sturqulewski  
Requestor: Senate State Affairs

Department Affected: Administration  
BRU: Finance  
Component: Finance

COMPONENT SERIAL NO. 

59			
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	67.6	5.0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	67.6	5.0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	67.6	5.0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	67.6	5.0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	4	1	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: See attached.

ANALYSIS: (Attach a separate page if necessary.)

Changes in SSB 337 (Fin) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
2-25-92 date kl Comte Aide (initial)

Prepared by: Don Wanie, Director *DW 1/29*  
Division: Finance

Phone: 465-2240  
Date: January 29, 1992

Approved by Commissioner: Nancy Bear Usera *NBCU*  
Agency: Administration

Date: 1/30/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Impact of a Retirement Incentive Program

The Division of Finance is responsible for verification of employment history and processing of termination pay for all state employees. This includes verifying the length of employment, accounting for all leave without pay during the entire employment with the state and determining salaries for the three highest years. In addition, final and terminal leave pay must be processed in accordance with contractual agreements.

With implementation of a Retirement Incentive Program (RIP) the workload for these functions would be significantly increased and additional support will be required by the Division of Finance to meet processing deadlines. Approximately five hundred employees took advantage of the previous RIP. It is anticipated that a comparable number of employees would participate if a RIP was implemented in the next year. Based on past experience, this would require four additional positions, including one Accountant I and three Accounting Technicians I, for a period of six months. Estimated cost for these positions would be:

Accountant I (1)	Range 14A	19.7
Acct Tech I (3)	Range 12A	<u>52.9</u>
Total Cost		72.6



2/28/92

# Alaska State Legislature

SENATOR JIM DUNCAN

P.O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

## COMMITTEES:

VICE CHAIR –  
FINANCE  
VICE CHAIR –  
STATE AFFAIRS  
RULES  
BUDGET & AUDIT  
ETHICS REFORM

## FACT SHEET ON SB 337

### THE RETIREMENT INCENTIVE PROGRAM

Provided by Senator Jim Duncan

#### HOW DOES IT WORK?

- \* The Retirement Incentive Program is designed to be used in periods of declining revenues.
- \* It works by providing employers with a management tool with which to save personal services dollars without laying off short term employees.
- \* Long term employees are offered a three year credit against retirement which they can use against normal or early retirement requirements.
- \* SB 337 requires that personal services savings be realized by participating employers within a five year period.
- \* Savings comes from the difference between the salary of the long-term employee who retires and the salary of a replacement employee; or through the elimination of the retiree's position.

#### WHAT ARE THE ECONOMIC BENEFITS OF THE PROGRAM?

- \* The economic benefits of the Retirement Incentive Program are one of its most compelling features; first, personal services savings are realized in operating budgets; second, the new retirees for the most part remain in their communities and continue contributing their resources to our economy; and third, the employee with less seniority who is not laid off or is newly hired continues to receive a paycheck and in turn contributes to Alaska's economy.

#### WHO QUALIFIES?

- \* A vested employee must be within 3 years of early or normal retirement.

**HOW MUCH WILL THE RETIREE'S BENEFIT INCREASE?**

\* The increased benefit will vary depending on each individual's length of service and their age.

**WHAT DOES THE EMPLOYER HAVE TO CONTRIBUTE?**

\* The employer's cost is the difference between the employee's contribution and the full actuarial cost of the three year incentive. The State's actuaries calculate the full cost for each individual eligible for the program.

**WHAT DOES THE EMPLOYEE HAVE TO CONTRIBUTE?**

\* The employee is required to pay what they would have paid into the retirement system if they had continued to work for an additional three years.

**ARE PERS AND TRS FULLY COMPENSATED FOR RIP COSTS?**

\* Yes, the most recent annual reports on both PERS and TRS state that both systems have been adequately compensated for RIP incurred costs.

**WHAT WERE THE SAVINGS FROM THE 1986-87 PROGRAM?**

\* In 1986-87 there were 2,327 participants and savings calculated at almost \$73 million.

**WHAT ABOUT THE 1989-90 PROGRAM?**

\* Legislative Audit reports that a total saving of almost \$23 million were achieved by public employers with 1,764 participants.

**WHY THE DIFFERENCE IN SAVINGS BETWEEN THE TWO PROGRAMS?**

\* The decrease in savings between the 19887-87 program and the 1989-90 program is primarily accounted for by the auditor's conservative standards for determining savings and the high level of participation in the original program.

**HAVE THERE BEEN ANY MAJOR AMENDMENTS TO THE BILL?**

\* The State Affairs Committee shortened the window period for state employees to be entirely contained in Fiscal Year 93 at the request of the Commissioner of Administration.

\* The Finance Committee amended the bill to allow all employers other than the state to implement shorter window periods for their employees than are in the bill. This amendment will allow maximum flexibility to use the Program to accommodate specific budgetary needs.

<b>Window Periods</b>			
<b>Employee Type</b>	<b>Application Period</b>	<b>First Day Employee Can Retire</b>	<b>Employee Must Retire on or Before</b>
Teachers	June 30, 1992-Dec. 31, 1992	July 1, 1992	August 1, 1993
University	" "	" "	" "
State	July 31, 1992-Oct. 31, 1992	Aug. 1, 1992	July 1, 1993
Municipal	Dec. 31, 1992-June 30, 1993	Jan. 1, 1993	February 1, 1994

DEPARTMENT OF ADMINISTRATION

Estimated Number of Public Employees determined  
to be Eligible under the Finance Committee Substitute  
for Senate Bill 337, Retirement Incentive Program

State of Alaska Employees:

PERS ----	4,000
TRS ----	50

University of Alaska:

PERS ----	500
TRS ----	450

Political Subdivision & School Districts:

PERS ----	3,700
TRS ----	1,900

2/29/92

Table of Alaska Residency for the  
Public Employees' and Teachers Retirement Systems  
Benefit Recipients

<u>Year</u>	<u>PERS</u>	<u>TRS</u>
1982	60%	49%
1986	69%	54%
1991	71%	66%

These figures were the result of analyses by the system actuary in preparation of the PERS and TRS five year Study of Actuarial Assumptions. The study is performed to review all the system's assumptions and make adjustments to reflect the prior period experience. These numbers are dollar weighted to reflect the economic value of benefit dollars residing in the state.

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P O BOX C  
JUNEAU, ALASKA 99811-0200  
PHONE (907) 465-2200  
FAX (907) 465-2135

January 29, 1992

The Honorable Jim Duncan  
Alaska State Legislator  
State Capitol  
Juneau, AK 99811

Dear Senator Duncan:

This is to follow up on the discussions regarding SB 337 at the Senate State Affairs Committee meeting on January 22.

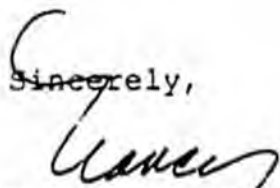
As requested, we have reviewed the "window" for State participation in the program. We find that under the February 1, 1994, window proposed in SB 337, 4,366 State employees would be eligible to participate; and based upon the experience of the last incentive program, approximately 29%, or 1,266, employees could be expected to avail themselves of the incentive. The July 1, 1993, window proposed by the department would reduce the number of eligible employees by 447 and, in turn, the actual number who would participate by only 130. In view of the greater flexibility the shorter window would provide for dealing with projected revenue shortfalls, I believe its benefits outweigh the exclusion of the small number of employees who would be affected.

I am enclosing a copy of the specific amendments the department is proposing to Senate Bill 337. They include language for the windows for State employees for making application and actually retiring, as well as the other amendments we offered on January 22. We have, however, redrafted the contracting prohibition amendment to model it after that set out in the legislation enacted for the last incentive program.

I would appreciate your favorable consideration of these amendments which would enable the Department of Administration to support SB 337.

Thank you.

Sincerely,

  
Nancy Bear Usura  
Commissioner

NBU/nl  
Enclosures

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

P.O. BOX 110200  
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March 18, 1992

The Honorable Jim Duncan  
Alaska State Senator  
State Capitol  
Juneau, AK 99801-1182

Dear Senator Duncan:


I understand a question has been raised as to how a provision of SB 337 would affect employees who have had a break in service due to a period of layoff. The issue arises apparently in connection with the eligibility requirement that to participate in the RIP an employee must have been continuously employed by the State since November 1, 1991.

In reviewing the matter, I find that State policy provides that an employee who is laid off is put on "leave without pay" (LWOP) status, rather than actually being terminated. For this reason, an employee who is placed on LWOP would still be considered to be employed by the State for RIP purposes, regardless of when they were placed on LWOP.

In short, an employee who had been laid off and placed on leave without pay status would still be eligible for participation in the Retirement Incentive Program. This interpretation is consistent with that applied in the prior two RIP programs.

If additional information or clarification is needed, please let me know.

Sincerely,

  
Nancy Bear Usera  
Commissioner

NBU/nl

cc: Paul Fuhs  
Legislative Liaison  
Office of the Governor

Gary Bader  
Director  
Division of Retirement and Benefits  
Department of Administration