

Joe Hayes

From: Susan A [REDACTED]
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Public Testimony SB 120: Alaska Climate Change Emergency Response Commission

Loopholes

Potential Loophole: The bill does not define the scope of "vulnerable" areas or sectors of the economy. Without clear criteria, it could be difficult to determine how resources are allocated or which regions/industries receive priority assistance. There may also be a lack of oversight on how grants are distributed, possibly allowing for inefficient or unequal application of funds.

Suggested Amendment: Define "vulnerable" areas and sectors clearly to ensure equitable resource distribution and establish a framework for oversight to prevent misuse or misallocation of funds.

Overlaps

Federal and State Programs: There may be overlaps between this new commission and federal agencies, especially considering federal climate initiatives. A review should be conducted to ensure that this commission doesn't duplicate existing federal programs, such as those under the EPA or the Department of Energy, focusing on climate change response.

State Agencies: The bill assigns multiple roles for existing commissioners and departments, which may lead to redundancies or confusion in leadership and responsibilities.

Suggested Amendment: Conduct a comprehensive review to ensure the commission does not duplicate existing federal programs and streamline roles and responsibilities across state agencies to avoid redundancies.

Constitutionality

The bill appears constitutionally sound, as it falls within the state's authority to establish commissions for managing natural resources and responding to emergencies. The composition of the commission, balancing governmental and municipal representation, is appropriate and ensures no conflict with state constitutional rights.

Suggested Amendment: Ensure that Alaska Native sovereignty and rights are explicitly recognized, aligning the commission's work with the Alaska Native Claims Settlement Act (ANCSA) and other relevant federal laws.

Alignment with Project 2025

The bill does not align with the conservative or deregulatory goals often associated with Project 2025. The bill, by focusing on the state's response to climate change and investing in renewable energy, could be seen as contrary to Project 2025's focus on deregulation in some areas.

Suggested Amendment: Ensure that climate change goals reflect broad, long-term environmental stewardship and economic strategies that prioritize sustainable development rather than short-term deregulation.

Legally Robust

The bill is generally robust in terms of its establishment of a formal commission with clear duties and powers, especially in its focus on coordinating various state agencies and municipalities. However, its lack of strong enforcement mechanisms for recommendations may undermine its long-term effectiveness.

Suggested Amendment: Add provisions for penalties or enforcement measures to ensure compliance with climate change mitigation and adaptation strategies.

Corporate Accountability

Private Sector Engagement: There is no clear requirement for private sector companies, especially in energy and natural resources, to be involved in or held accountable by the commission. For the commission to be effective, it should have provisions to work with private entities that impact climate change, including fossil fuel companies, to align their operations with state goals.

Suggested Amendment: Establish a formal framework for engaging private sector companies, including fossil fuel corporations, and require them to align with the commission's climate goals through accountability mechanisms.

Windfall Profits

The bill does not directly address the issue of windfall profits or corporate exploitation of climate change policies. This could be a gap if significant resources are allocated to the private sector for climate change mitigation or adaptation without addressing the potential for exploitative financial practices.

Suggested Amendment: Include provisions that address windfall profits from public funds allocated for climate change, ensuring that financial resources are used to benefit public interests and not exploitative corporate gain.

Executive Compensation

There is no mention of executive compensation for the members of the commission, which seems consistent with the language of the bill that stipulates they serve without compensation, though they are entitled to per diem and travel expenses. However, there may need to be safeguards in place to ensure transparency in any external contracts or hiring processes.

Suggested Amendment: Ensure transparency in any hiring or contract processes by requiring disclosure of any executive compensation and ensuring that the compensation aligns with the commission's goals of equitable climate response.

Digital Assets

The bill does not address digital assets directly, but it could include considerations for technology-driven solutions for climate change, such as blockchain for carbon tracking or renewable energy technologies.

Suggested Amendment: Consider incorporating digital assets and technologies like blockchain for more transparent and effective carbon tracking and monitoring.

Offshore Tax Avoidance

The bill does not specifically address corporate tax avoidance or offshore business activities. These issues could become relevant if the state incentivizes new industries to combat climate change but fails to ensure proper tax oversight.

Suggested Amendment: Include provisions ensuring that companies benefiting from state-sponsored climate change initiatives are not avoiding taxes or engaging in offshore tax havens.

Environmental Accountability

The bill provides for strong environmental accountability by focusing on climate change mitigation and adaptation efforts. The commission will have a direct role in monitoring and reporting on the effects of climate change, which aligns well with environmental protection goals.

Suggested Amendment: Strengthen the accountability mechanisms, ensuring that the commission's findings are actionable, with clear timelines for addressing climate change impacts.

Worker Protections

While the bill emphasizes the transition to renewable energy and sustainable infrastructure, it does not appear to address worker protections for those in fossil fuel industries who may be displaced by the new initiatives. Considerations for retraining programs or job transition support could be added to ensure equitable labor practices.

Suggested Amendment: Include provisions for retraining, job transition programs, and worker protections for those in industries affected by the transition to renewable energy.

Energy and Environmental Justice Fund

There is no specific mention of an "Energy and Environmental Justice Fund," but the commission is empowered to manage grants and offer assistance to rural and tribal organizations. This could be a form of environmental justice, but the fund would benefit from clearer guidelines and a dedicated funding structure.

Suggested Amendment: Establish a dedicated Energy and Environmental Justice Fund to provide targeted assistance to rural and Native Alaskan communities affected by climate change, ensuring their access to sustainable development and mitigation opportunities.

Strict Penalties for Non-Compliance

The bill lacks provisions for penalties or enforcement measures for non-compliance with its strategic response plan. This could undermine the long-term efficacy of the commission's initiatives, as voluntary action or non-cooperative entities could escape accountability.

Suggested Amendment: Add strict penalties for non-compliance with the commission's recommendations and plans, ensuring accountability for stakeholders involved in the implementation of climate strategies.

Constitutional Analysis, Treaties, and Tribal Rights

The bill mentions prioritizing assistance to rural governments, nonprofits, and tribal organizations. While this is a positive step, it could be beneficial to explicitly include tribal consultation in the decision-making process and recognize their sovereignty over land and resources in the state, ensuring compliance with treaties and federal law.

Suggested Amendment: Explicitly require consultation with Alaska Native tribes and corporations in all climate-related decisions, ensuring compliance with federal treaties, state laws, and respect for Native sovereignty.

Legal Precedent and Case Law

There is little direct case law mentioned in the bill. However, similar commissions and emergency response initiatives in other states and jurisdictions could provide a framework for the commission's powers and duties. Legal precedent on climate change-related litigation, such as cases against fossil fuel companies or regulatory agencies, could also inform its actions.

Suggested Amendment: Draw from legal precedents in other jurisdictions to ensure the commission has a clear legal framework for addressing climate change and mitigating impacts on Native and rural communities.

Expanded Recommendations:

Incorporate Enforcement Mechanisms

The bill should be amended to include more robust enforcement provisions, such as penalties for non-compliance with its recommendations or failure to act on climate change impacts.

Clarify Role of Private Sector

Provisions to ensure accountability from private sector actors involved in energy production, distribution, and climate change-related technologies should be included.

Include Worker Protections

As the bill may result in shifts in employment due to the transition from fossil fuels to renewable energy, there should be clear provisions for worker retraining programs or protections for displaced workers.

Expand Tribal Consultation

The bill could benefit from more explicit recognition of tribal rights and consultation, ensuring alignment with federal and international law on indigenous sovereignty.

Promote Sustainable Development and Native Empowerment

Strengthen the focus on empowering Native Alaskan tribes and corporations in the management of natural resources and green energy initiatives, ensuring they benefit directly from sustainable development projects.

This section includes practical recommendations and policy solutions that align with the rights of Native Alaskans while ensuring economic and environmental resilience for the state.

Expanded Analysis of the Bill with Solutions

1. Recognition of Native Sovereignty and Land Rights

Solution: Establish a clear legal framework that recognizes and strengthens Native Alaskan sovereignty. The bill should mandate that the state consults with Alaska Native corporations and tribes before making decisions regarding land use, resource management, and environmental policy. In addition, mechanisms to ensure state compliance with ANCSA and other relevant treaties must be integrated into state law.

Suggested Amendment: "The State of Alaska recognizes the sovereignty of Alaska Native tribes and corporations over lands and resources under their ownership, as granted by the Alaska Native Claims Settlement Act (ANCSA), and mandates that the state and federal governments consult with the respective tribes and corporations prior to any action affecting said lands or resources. This consultation will also include agreements on land management, economic development, and cultural preservation. The State will uphold its commitment to Native sovereignty, including the right to manage lands, resources, and cultural heritage."

2. State Control Over Federal Land

Solution: Introduce a state-led initiative to regain control of federally managed lands that are crucial to Native Alaskan communities, particularly for cultural and subsistence purposes. The bill should outline a framework for negotiating land transfers with the federal government and involve Native representatives in the process. Moreover, incentivize the development of state-managed conservation programs that align with Native values and goals.

Suggested Amendment: "The State of Alaska will actively negotiate with the federal government for the transfer of lands that are currently federally managed but fall under the jurisdiction of Alaska Native tribes or corporations. These negotiations will be done in full partnership with Native communities to ensure that federal actions respect state and Native sovereignty. The State will also create a state-managed land conservation program that incorporates traditional ecological knowledge, benefiting both state resources and Native cultural practices."

3. Consultation Process for State and Federal Actions

Solution: The state should formalize a consultation process that goes beyond basic consultation, ensuring that Native communities are not just informed but have a seat at the table in decision-making. This can include the creation of a dedicated office within the state government to facilitate these consultations, with specific protocols for issues such as environmental assessments, land management, and resource extraction.

Suggested Amendment: "Prior to any state or federal action affecting lands, resources, or the environment within Alaska Native territories, a formal consultation process with the respective Alaska Native tribes and corporations must be conducted. This consultation process will involve the creation of a State Office of Native Consultation, which will work directly with Alaska Native communities to ensure their interests, concerns, and sovereignty are fully respected in all decision-making processes. This office will also ensure that consultation timelines allow for meaningful community input."

4. Environmental Stewardship by Native Communities

Solution: Establish partnerships between Native communities and the state to co-manage Alaska's natural resources. These partnerships should prioritize the integration of traditional knowledge with modern environmental management practices, fostering a holistic approach to sustainability that benefits both Native and non-Native communities.

Suggested Amendment: "The State of Alaska will prioritize collaboration with Alaska Native tribes, corporations, and organizations to develop and implement sustainable land-use practices, conservation efforts, and environmental policies. These policies will incorporate Native knowledge systems, traditional ecological practices, and modern conservation science to achieve long-term sustainability of Alaska's lands and resources. The State will establish a funding mechanism to support these joint stewardship projects, ensuring that Native communities are not only included in decision-making but are supported financially to carry out these crucial roles."

5. Strengthening Alaska Native Claims Settlement Act (ANCSA) Protections

Solution: Create a state-level advisory committee focused on ensuring that ANCSA protections are upheld and that Alaska Native communities are supported in their role as stewards of the land. This committee would include representatives from Native corporations, tribes, environmental groups, and state agencies, providing a platform for ongoing dialogue and policy innovation.

Suggested Amendment: "The State of Alaska reaffirms its commitment to the Alaska Native Claims Settlement Act (ANCSA), ensuring that the land rights and resource management responsibilities granted to Alaska Native corporations and individuals will be fully recognized and preserved. The state will establish an ANCSA Advisory Committee, made up of Alaska Native leaders, state officials, and environmental experts, to provide ongoing guidance on policies that affect Native lands and resources. Any changes to land use or resource management must be in accordance with ANCSA and with the consent of the affected Native communities."

6. Support for Alaska Native Development and Economic Empowerment

Solution: Invest in capacity-building programs for Alaska Native corporations to engage in green energy and sustainable development initiatives. Provide tax incentives, grants, and low-interest loans for Native communities to lead in renewable energy projects, seaweed farming, and other environmentally sustainable industries. Additionally, establish a state-run innovation fund focused on Native-led enterprises that promote sustainability.

Suggested Amendment: "The State of Alaska will work with Alaska Native corporations and tribes to promote sustainable development projects and economic opportunities in green energy, sustainable resource management, and environmental protection. The State will establish a Green Energy Development Fund, which will provide grants and low-interest loans to Native corporations to invest in projects such as renewable energy, seaweed farming, and sustainable fisheries. The state will also offer tax incentives to Native-led businesses that engage in environmentally responsible practices."

7. Inclusion of Alaska Native Representatives in Oversight

Solution: Mandate that every state board, committee, and agency that makes decisions affecting Native lands and resources must include Native Alaskan representatives. This ensures that Native voices are part of every significant decision and that policies respect Native sovereignty and self-governance. Furthermore, provide resources and support for Native communities to take leadership roles in these bodies.

Suggested Amendment: "The State of Alaska will ensure that Alaska Native tribes, corporations, and organizations are represented on all relevant state-level bodies or committees responsible for land use, resource management, and environmental protection decisions. The state will provide training and resources to ensure that Native representatives are fully equipped to participate in these decision-making processes. These representatives will serve as active decision-makers, ensuring that Native sovereignty and interests are respected."

8. Protection of Native Subsistence Rights

Solution: Strengthen protections for subsistence rights by establishing a state fund to help communities affected by the loss of access to subsistence resources. Additionally, incorporate provisions to create alternative livelihood programs for Native Alaskans impacted by environmental changes or resource extraction that threaten subsistence activities.

Suggested Amendment: "The State of Alaska affirms the rights of Alaska Native communities to engage in subsistence hunting, fishing, and gathering as guaranteed by federal law and state regulations. The state will create a Subsistence Protection Fund to support Native communities facing challenges due to loss of access to subsistence resources. This fund will support community-driven solutions and alternative livelihoods, including training for sustainable fisheries and wildlife management."

By incorporating these solutions, the bill will strengthen Alaska Native sovereignty and self-governance, promote sustainable economic development, and enhance environmental protection. The solutions provide a roadmap for addressing critical issues such as land management, resource extraction, cultural preservation, and economic empowerment.

Key solutions include:

Strengthening legal recognition of Alaska Native sovereignty and land rights.

Reasserting state authority over federal lands while safeguarding Native interests.

Formalizing consultation processes to ensure meaningful participation of Native communities.

Prioritizing partnerships with Native communities for environmental stewardship and sustainable resource management.

Supporting Native-led economic initiatives through targeted funding and incentives.

Providing robust protections for subsistence rights and alternative livelihood options for Native communities.

These measures will ensure that the State of Alaska respects the rights of Native Alaskans while securing a sustainable, prosperous future that benefits all Alaskans. By taking a holistic, inclusive approach to policy-making, the bill will position Alaska as a model for integrating Native governance with state and federal policy, leading to greater equity and shared success.

Thank you for your time and consideration
Susan Allmeroth
Two Rivers
Myself