

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 20, 2001

1:50 p.m.

MEMBERS PRESENT

Representative Beverly Masek, Co-Chair
Representative Drew Scalzi, Co-Chair
Representative Hugh Fate, Vice Chair
Representative Joe Green
Representative Mike Chenault
Representative Lesil McGuire
Representative Gary Stevens
Representative Mary Kapsner
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 26

Requesting the National Marine Fisheries Service to relocate the Alaska Fisheries Science Center Steller sea lion research team to Alaska.

- MOVED HJR 26 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 121(RES)

"An Act adding, for purposes of the Alaska Right-of-Way Leasing Act, a definition of 'substantial change' as applied to an amended right-of-way lease application; and providing for an effective date."

- MOVED CSSB 121(RES) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 158(RES) am

"An Act directing the commissioner of revenue to prepare a report to the legislature relating to the state's participation in owning or financing a gas pipeline project; and providing for an effective date."

- MOVED HCS CSSB 158(O&G) OUT OF COMMITTEE

HOUSE BILL NO. 185

"An Act relating to fees for certain uses of state water and the accounting and appropriation of those fees; relating to authorizations for the temporary use of state water; making other amendments to the Alaska Water Use Act; and providing for an effective date."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 22

"An Act relating to certain passenger vessels operating in the marine waters of the state; and providing for an effective date."

- MOVED CSSSHB 22(RES) OUT OF COMMITTEE

HOUSE BILL NO. 144

"An Act requiring nonresident hunters to be accompanied when hunting moose; and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 232

"An Act permitting state residents to purchase remote recreational cabin sites."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HJR 26

SHORT TITLE: STELLER SEA LION RESEARCH TEAM TO ALASKA
SPONSOR(S): REPRESENTATIVE(S) STEVENS

Jrn-Date	Jrn-Page		Action
04/03/01	0828	(H)	READ THE FIRST TIME - REFERRALS
04/03/01	0828	(H)	RES
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 121

SHORT TITLE: RIGHT-OF-WAY LEASING ACT
SPONSOR(S): SENATOR(S) LEMAN

Jrn-Date	Jrn-Page		Action
02/27/01	0520	(S)	READ THE FIRST TIME - REFERRALS
02/27/01	0521	(S)	RES, FIN

03/16/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/16/01		(S)	Heard & Held
03/16/01		(S)	MINUTE(RES)
03/30/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/30/01		(S)	-- Meeting Canceled --
04/02/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/02/01		(S)	Moved CS(RES) Out of Committee
04/02/01		(S)	MINUTE(RES)
04/03/01	0920	(S)	RES RPT CS 4DP SAME TITLE
04/03/01	0920	(S)	DP: TORGERSON, TAYLOR, PEARCE, KELLY
04/03/01	0920	(S)	FN1: ZERO(DNR)
04/09/01	1032	(S)	FIN REFERRAL WAIVED REFERRED TO RULES
04/09/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/09/01		(S)	Scheduled But Not Heard
04/10/01	1047	(S)	RULES TO CALENDAR 4/10/01
04/10/01	1049	(S)	READ THE SECOND TIME
04/10/01	1049	(S)	RES CS ADOPTED UNAN CONSENT
04/10/01	1049	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/10/01	1049	(S)	READ THE THIRD TIME CSSB 121(RES)
04/10/01	1049	(S)	PASSED Y17 N3
04/10/01	1050	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/10/01	1053	(S)	TRANSMITTED TO (H)
04/10/01	1053	(S)	VERSION: CSSB 121(RES)
04/10/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/10/01		(S)	MINUTE(RLS)
04/11/01	0949	(H)	READ THE FIRST TIME - REFERRALS
04/11/01	0949	(H)	O&G, RES
04/18/01		(H)	O&G AT 5:00 PM CAPITOL 124
04/18/01		(H)	Moved Out of Committee
04/18/01		(H)	MINUTE(O&G)
04/19/01	1067	(H)	O&G RPT 4DP
04/19/01	1067	(H)	DP: KOHRING, DYSON, CHENAULT, FATE
04/19/01	1067	(H)	FN1: ZERO(DNR)
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: SB 158

SHORT TITLE:REPORT:STATE PARTICIPATE IN NAT GAS PIPE.

SPONSOR(S) : RESOURCES

Jrn-Date	Jrn-Page		Action
03/23/01	0785	(S)	READ THE FIRST TIME - REFERRALS
03/23/01	0785	(S)	RES, FIN
03/28/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/28/01		(S)	Moved CS(RES) Out of Committee
03/28/01		(S)	MINUTE(RES)
03/29/01	0855	(S)	RES RPT CS 6DP 1NR SAME TITLE
03/29/01	0856	(S)	DP: TORGERSON, TAYLOR, HALFORD, PEARCE,
03/29/01	0856	(S)	KELLY, ELTON; NR: LINCOLN
03/29/01	0856	(S)	FN1: (REV)
04/06/01	0974	(S)	FIN RPT CS(RES) 6DP 3NR
04/06/01	0974	(S)	DP: DONLEY, KELLY, AUSTERMAN, OLSON,
04/06/01	0974	(S)	LEMAN, WILKEN; NR: GREEN, HOFFMAN,
04/06/01	0974	(S)	WARD
04/06/01	0974	(S)	FN1: (REV)
04/06/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/06/01		(S)	Moved Out of Committee MINUTE(FIN)
04/09/01	1013	(S)	RULES TO CALENDAR 4/9/01
04/09/01	1017	(S)	READ THE SECOND TIME
04/09/01	1017	(S)	RES CS ADOPTED UNAN CONSENT
04/09/01	1018	(S)	AM NO 1 OFFERED BY WARD
04/09/01	1018	(S)	AM TO AM 1 UNANIMOUS CONSENT
04/09/01	1018	(S)	AM NO 1 AS AMENDED ADOPTED Y12 N8
04/09/01	1019	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/09/01	1019	(S)	READ THE THIRD TIME CSSB 158(RES) AM
04/09/01	1019	(S)	PASSED Y20 N-
04/09/01	1019	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/09/01	1032	(S)	TRANSMITTED TO (H)
04/09/01	1032	(S)	VERSION: CSSB 158(RES) AM
04/09/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/09/01		(S)	MINUTE(RLS)
04/10/01	0917	(H)	READ THE FIRST TIME - REFERRALS

04/10/01	0917	(H)	O&G, RES, FIN
04/18/01		(H)	O&G AT 5:00 PM CAPITOL 124
04/18/01		(H)	Moved HCS CSSB 158(O&G) Out of Committee
04/18/01		(H)	MINUTE(O&G)
04/19/01	1067	(H)	O&G RPT HCS(O&G) 4DP 1AM
04/19/01	1067	(H)	DP: DYSON, CHENAULT, GUESS, FATE;
04/19/01	1067	(H)	AM: KOHRING
04/19/01	1068	(H)	FN1: (REV)
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 185

SHORT TITLE:ALASKA WATER USE ACT & FEES

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/14/01	0591	(H)	READ THE FIRST TIME - REFERRALS
03/14/01	0591	(H)	RES, FIN
03/14/01	0591	(H)	FN1: (DNR)
03/14/01	0591	(H)	GOVERNOR'S TRANSMITTAL LETTER
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 22

SHORT TITLE:MARINE PASSENGER VESSELS

SPONSOR(S): REPRESENTATIVE(S)KERTTULA

Jrn-Date	Jrn-Page		Action
01/08/01	0029	(H)	PREFILE RELEASED 12/29/00
01/08/01	0029	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0030	(H)	TRA, RES, FIN
02/23/01	0410	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/23/01	0410	(H)	READ THE FIRST TIME - REFERRALS
02/23/01	0410	(H)	TRA, RES, FIN
04/19/01		(H)	TRA AT 1:00 PM CAPITOL 124
04/19/01		(H)	Moved CSSHB 22(TRA) Out of Committee
			MINUTE(TRA)
04/19/01		(H)	MINUTE(TRA)
04/20/01	1083	(H)	TRA RPT CS(TRA) NT 3DP 1NR 1AM
04/20/01	1084	(H)	DP: KOOKESH, KAPSNER, SCALZI;
04/20/01	1084	(H)	NR: MASEK; AM: KOHRING

04/20/01 1084 (H) FN1: (DEC)
04/20/01 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 144

SHORT TITLE: GUIDES FOR NONRESIDENT MOOSE HUNTERS

SPONSOR(S): REPRESENTATIVE(S) LANCASTER

Jrn-Date	Jrn-Page		Action
02/23/01	0416	(H)	READ THE FIRST TIME - REFERRALS
02/23/01	0416	(H)	RES
02/23/01	0416	(H)	REFERRED TO RESOURCES
04/06/01	0889	(H)	COSPONSOR REMOVED: CHENAULT
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

ANNETTE KREITZER, Staff
to Senator Loren Lemam
Alaska State Legislature
Capitol Building, Room 516
Juneau, Alaska 99801

POSITION STATEMENT: Spoke on behalf of the sponsor of SB 121.

JAMES EASON, Lobbyist
for Foothills Pipe Lines, Ltd.
8611 Leeper Circle
Anchorage, Alaska 99507

POSITION STATEMENT: Encouraged the committee to move SB 121.

SENATOR JOHN TORGERSON
Alaska State Legislature
Capitol Building, Room 427
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the Senate Resources
Committee, the sponsor of SB 158.

MARILYN CROCKETT, Deputy Director
Alaska Oil and Gas Association
121 W. Fireweed Number 207
Anchorage, Alaska 99503

POSITION STATEMENT: Encouraged the committee to adopt a
committee substitute similar to CSSB 139[(FIN)].

BOB LOEFFLER, Director
Division of Mining, Land and Water

Department of Natural Resources
550 W 7th Avenue, Suite 1070
Anchorage, Alaska 99501-3579
POSITION STATEMENT: Presented HB 185 and Version C.

TOM CRAFFORD
Alaska Miners Association
3000 Princeton Way
Anchorage, Alaska 99508
POSITION STATEMENT: Testified in support of HB 185 with the inclusion of the amendments that were included in CSSB 139.

BOB STILES, President
Resource Development Council
711 H Street, Suite 600
Anchorage, Alaska 99501
POSITION STATEMENT: Testified to RDC's strong support of HB 185 with the additions made in the amendment [to SB 139].

ROBERT REGES, Member
Cruise Control, Inc.
226 Saint Ann's Avenue
Douglas, Alaska 99824
POSITION STATEMENT: Expressed concerns with CSSSHB 22(TRA).

RANDY RAY
U.S. Cruise Ship Association
P.O. Box 979
Mercer Island, Washington 98040
POSITION STATEMENT: Expressed his interest in seeing this bill [CSSSHB 22(TRA)] move forward.

REPRESENTATIVE KEN LANCASTER
Alaska State Legislature
Capitol Building, Room
Juneau, Alaska 99801
POSITION STATEMENT: Testified as the sponsor of HB 144.

VIRGIL UMPHENOUR
(No address provided.)
POSITION STATEMENT: Testified in support of [CSHB 144, Version J].

CLARK WHITNEY
43735 Sports Lake Road
Soldotna, Alaska 99669
POSITION STATEMENT: Urged the committee's support of HB 144.

DICK BISHOP

Alaska Outdoor Council
1555 Gus's Grind
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in opposition to HB 144.

GREG ROCZICKA

Orutsararmuit Native Council;
Chair, Board of Game
PO Box 513
Bethel, Alaska 99559

POSITION STATEMENT: As an ONC representative, he spoke in support of HB 144. As a Board of Game representative, he informed the committee that the board hadn't taken a position on HB 144.

ALEX TARNAI, Trapper
Nowitna Wildlife Refuge
(No address provided.)

POSITION STATEMENT: Testified in support of HB 144.

TOM JOHNSON

High Adventure Air
PO Box 486
Soldotna, Alaska 99669

POSITION STATEMENT: Testified in opposition to HB 144.

NEIL WEBSTER

Beardown Adventures
11044 Buscna Circle
Eagle River, Alaska 99577

POSITION STATEMENT: Requested that HB 144 be moved from committee today.

DAVID HAEG, Director

Alaska's Western Wildlife Alliance
PO Box 123
Soldotna, Alaska 99669

POSITION STATEMENT: Testified in support of HB 144.

KELVIN GURNEY

PO Box 443
Delta Junction, Alaska 99737

POSITION STATEMENT: Testified in support of HB 144 as amended.

JOE KLUTSCH, Master Guide

Katmai Guide Service

PO Box 313

King Salmon, Alaska 99613

POSITION STATEMENT: Testified in support of HB 144.

GEORGE SIAVELIS

Aniak, Alaska

POSITION STATEMENT: Testified in support of HB 144.

JIMMY HURLEY

Ekwok, Alaska

POSITION STATEMENT: Testified in support of HB 144.

MATT ROBUS, Deputy Director

Division of Wildlife Conservation

Alaska Department of Fish & Game

PO Box 25526

Juneau, Alaska 99802-5526

POSITION STATEMENT: Testified in opposition to HB 144.

WAYNE REGELIN, Director

Division of Wildlife Conservation

Alaska Department of Fish & Game

PO Box 25526

Juneau, Alaska 99802-5526

POSITION STATEMENT: Provided additional information.

ACTION NARRATIVE

TAPE 01-37, SIDE A

Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting to order at 1:50 p.m. Representatives Masek, Scalzi, Fate, Green, Chenault, McGuire, Stevens, and Kerttula were present at the call to order. Representative Kapsner arrived as the meeting was in progress.

HJR 26-STELLER SEA LION RESEARCH TEAM TO ALASKA

CO-CHAIR SCALZI announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 26, Requesting the National Marine Fisheries Service to relocate the Alaska Fisheries Science Center Steller sea lion research team to Alaska.

[There was an unnecessary motion to adopt HJR 26 for discussion purposes.]

Number 0112

REPRESENTATIVE STEVENS reminded the committee that HJR 26 was created as a response to another bill regarding the study of Steller sea lions, in an effort to move the scientists to Alaska, where the research is being conducted and where the Steller sea lions live. He said there are facilities in Alaska and space is available. He mentioned recent travel restrictions placed on the National Marine Fisheries Service (NMFS) staff. Representative Stevens said he talked with NMFS people who have indicated that they have been considering sending some of their staff to Alaska.

Number 0239

CO-CHAIR MASEK referred to page 2, lines 12-13, of the joint resolution and asked why the language was not made specific regarding the location of the proposed facility in Alaska.

Number 0262

REPRESENTATIVE STEVENS responded that the western "portion" of the Steller seal lion [range] occurs from Yakutat to Dutch Harbor, so rather than be too specific, the language was left more general to let [NMFS] determine the best location.

Number 0318

REPRESENTATIVE FATE moved to report HJR 26 [version 22-LS0841\A] out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 26 was moved out of the House Resources Standing Committee. [Co-Chair Scalzi turned the gavel over to Co-Chair Masek.]

SB 121-RIGHT-OF-WAY LEASING ACT

CHAIR MASEK announced that the next order of business would be CS FOR SENATE BILL NO. 121(RES), "An Act adding, for purposes of the Alaska Right-of-Way Leasing Act, a definition of 'substantial change' as applied to an amended right-of-way lease application; and providing for an effective date."

ANNETTE KREITZER, Staff to Senator Loren Leman, Alaska State Legislature, explained that Senator Leman wanted to remove real or potential road blocks to the commercialization of Alaska's

North Slope gas. She paraphrased the sponsor statement, which reads as follows:

Senate Bill 121 provides a statutory definition of "substantial change" as that term is used in AS 38.35.050(c). This section provides that "any amendment to an application filed under this section which constitutes a substantial change in the application is subject to all provisions of this chapter applying to an original application." The statutes provide no guidance to applicants, the Department of Natural Resources, or other interested parties as to what is or is not a substantial change.

The difficulty with the language as it exists is that any or all changes to an original pipeline right-of-way lease application could be argued to be substantial.

MS. KREITZER added that the concern surrounds what happens when that decision is challenged in court and the court, by default, makes the decision. She continued:

This legislation establishes that: a 10 percent net increase in state acreage beyond what was in the original application; using less effective environmental or safety mitigation measures than proposed in the original application; or, proposing a fundamental change in the route as proposed in the original application would be substantial enough to require restarting the entire administrative process for obtaining a right-of-way lease across state lands.

MS. KREITZER noted that the reason for the exceptions is the difference between federal and state rights-of-way. She explained that federal rights-of-way are 50 feet, plus the amount of the improvement, which equals approximately 80 feet, whereas, state rights-of-way range from 100 to 150 feet. She said the state rights-of-way should not be included in the 10 percent net increase, because, essentially, the route of the pipeline is not being changed, rather the leases are being aligned. She continued with the sponsor statement:

This legislation will not foreclose on opportunities for the public and affected agencies to review and comment on subsequent amendments to initial lease applications. It will, however, provide an increased

measure of certainty and will minimize unnecessary challenges and delays in processing, approving and issuing right-of-way leases.

Number 0590

JAMES EASON, Lobbyist, Foothills Pipe Lines, Ltd. (Foothills), explained that Foothills is a company owned jointly by trans Canada pipeline and West Coast Energy, which are the two largest pipeline companies in Canada. He stated that Foothills is the managing partner for the Alaska Natural Gas Transportation System (ANGTS), which, hopefully will be the system that brings Alaska gas to the Lower 48 market. Mr. Eason said Foothills has put most of its permits in place over the years, including the federal right-of-way in Alaska, as well as rights-of-way across Canada and the "pre-bill" system for parts of the Lower 48 states. He added that the "missing piece" of that is the state right-of-way. He said [Foothills] has expended a considerable amount of effort and money, since approximately 1984 to keep its application for that right-of-way active. Furthermore, [Foothills] has recently begun the process of finishing the rights-of-way lease for the rest of the system.

MR. EASON stated that [Foothills] views [SB 121] as an important piece of a necessary framework to assure that that permitting takes place and does so in a way that is open to full public review, while at the same time providing some valuable protections. He stated [Foothill's] belief that [SB 121] is important to any proponent for a gas pipeline that might be a high profile project, which might invite litigation.

MR. EASON indicated that the problem, as described by Ms. Kreitzer in previous testimony, is that the statutes - the right-of-way leasing act - have contained a term, which has had important implications for the act, since it was first adopted. He continued:

That term, "substantial change," was never defined. And as a practical matter, the Department of Natural Resources has faced questions, involving what is or is not a substantial change for the purposes of retriggering all the provisions of the act on several occasions, and they have successfully resolved those issues without litigation.

Our concern, however, is that it's not the department that ultimately makes the decision. If someone is

interested in delaying or blocking a project, it's simply a matter of watching the project's permitting unfold over a year and a half or two years, and if there are any changes in the application, today or tomorrow, by the applicant or by the state, it's arguable that someone can raise a claim that those are substantial changes.

The commissioner, we hope, would make the same types of decisions they always have - they've been decisions we think are right. But, at the same time, if they are challenged in court, it's not the commissioner's decision that matters, it's be the court's decision. And so, this bill is very important, because it provides the legislature the opportunity to provide some common sense guidelines that will help guide, not only the applicants, but the state in the adjudication of permits. And it will also help the public to understand how the permits are going to be ... adjudicated. ... We would encourage you to consider the bill favorably and move it out of committee.

Number 0761

REPRESENTATIVE GREEN described the following possible scenario: A pipeline is routed toward "community A" and deviated around it. Then, for whatever reason, "they" want to go closer or impact "community A" more. The impact would be less than 10 percent deviation from the original permit. Representative Green asked Mr. Eason, "would that, in your estimation .. or would this definition cover that, as far as a 'significant change?'"

MR. EASON responded that there were two events at issue. If there was a 10 percent or above increase in acreage involved, that would automatically be considered a substantial change. In that case "you" would go through all the provisions of the chapter again. Regarding the routing itself, Mr. Eason referred to page 2, lines 3 and 4, which read:

(C) a fundamental change in the general route as set out in the original application;

He said "we" struggled and worked with numerous people to develop language that would "capture the sense of the magnitude of the change, which should trigger substantial change." He stated that everyone realizes that there will be changes in the

alignment of a pipeline from the time it's applied for, until it's actually in place. However, those changes would generally be technical in nature, such as having to change the routing of a pipeline for engineering, environmental, political, or social reasons, for example.

MR.EASON explained that "you" have to maintain the flexibility to respond to the wishes of the public, as well as to the critical habitat or subsistence issues of the agencies, of which "you" may be unaware when you make the application. As the two or more years pass, while [the application] is under review those issues will become known and "you" will need the flexibility to rearrange the [pipeline] route to accommodate that. He described a clear-cut situation in which everyone would believe a substantial change had occurred: when someone applies [for a permit] to [build a pipeline] from Prudhoe Bay to Valdez, but a year and a half later says, "I'm going to go to the Lower 48, instead." He mentioned finding the middle ground; accommodate engineering, ground effects, or environmental issues, while providing certainty that a company won't try to gain pipelines by suggesting one route and then changing it.

Number 0929

REPRESENTATIVE GREEN stated that his concern was of a more subtle nature. He restated his example to describe a situation in which a pipeline was originally routed in one direction. However, a concern develops during involvement in the process and people realize "this is a habitat, or it's bad soil," for example. Therefore, it becomes necessary to change a route. There would be far less than 10 percent change in acreage, but it could have a significant impact. He asked if there was language somewhere else in statute that would cover that example.

Number 0975

MR. EASON responded as follows:

My belief is that this purposely would not accommodate that; it would not consider that a substantial change for the purposes of retriggering all of the provisions of the chapter. But there's a distinction that I think [is] important: It doesn't mean that that change won't be publicly .. that people will not receive notification of it, or that the agencies in the public won't have an opportunity to influence that

change. But, there's a difference under the statutes and the procedures, between keeping everyone informed of what changes have to happen, and why, and letting people participate in that decision. And taking the step as is required now, if there's a dispute, of going back and ... literally retriggering all the provisions, which means go back and refile the application, and again, all ... the procedural parts of the chapter. And so, ... there is that tension. ... I think it's more in people's way they view what substantial change does for ... an application.

Number 1030

REPRESENTATIVE GREEN said:

I appreciate that. ... The reason I ask is that this, in your estimation, either word-wise or intent-wise, is not an effort to avoid this little community, or this little thing, it just doesn't trigger the whole two-or three-thousand miles of pipeline.

MR. EASON answered correct.

REPRESENTATIVE GREEN asked if this kind of modification or description has been used anywhere else.

MR. EASON noted that he hasn't researched that question. However, he doubted that this type modification or description has been used elsewhere because he understood the state's right-of-way leasing act to be modeled after the federal right-of-way leasing act; therefore, he expected this kind of uncertainty to be embodied in both statutes. The issue is whether anyone has challenged it and tried to use it as a tool to force delay, he said.

Number 1085

CO-CHAIR MASEK announced that Bill Britt, Pipeline Coordinator, DNR, and Carol Carroll, Director, Division of Support Services, DNR, were available by teleconference and in person, respectively.

Number 1098

REPRESENTATIVE KERTTULA referred to page 2, [line 3] of the bill and asked Mr. Eason for his interpretation of the intent of the language, "a fundamental change in the general route".

Number 1126

MR. EASON replied that it would encompass a change between origin and destination. It would not include the changes along the route that were proposed to accommodate the routine eventualities relating to environmental reasons or public and agency reasons.

Number 1185

MS. KREITZER provided the committee with information regarding the different sizes of federal and state pipeline rights-of-way, which could be viewed as a substantial change. The information also noted where "substantial" is defined elsewhere in Alaska statute.

Number 1237

REPRESENTATIVE FATE moved to report CSSB 121(RES), [version 22-LS0477\L] out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSSB 121(RES) was moved out of the House Resources Standing Committee.

SB 158-REPORT:STATE PARTICIPATE IN NAT GAS PIPE.

Number 1260

CO-CHAIR MASEK announced that the next order of business would be CS FOR SENATE BILL NO. 158(RES) am, "An Act directing the commissioner of revenue to prepare a report to the legislature relating to the state's participation in owning or financing a gas pipeline project; and providing for an effective date." After much discussion, it was determined that HCS CSSB 158(O&G), version 22-LS0744\O, was before the committee.

Number 1407

SENATOR JOHN TORGERSON, Alaska State Legislature, testified on behalf of the Senate Resources Committee, the sponsor of SB 158. Senator Torgerson pointed out that there has been much discussion as to whether "we" should take ownership interest in a pipeline. This legislation establishes the parameters for a

study in order to determine whether the aforementioned is appropriate or not. The legislation also [requires] review of whether the state should participate in financing the project, and if so, in what capacity. Furthermore, the legislation requests that the Department of Revenue review the risks to the state when taking ownership. On page 3, beginning on line 2, is language that specifies that the department shall contract with a qualified person or firm. Since the desire is to do this in a timely manner, procurement under AS 36.30 is impracticable. The legislation requires that the contractor or its representative meet with the chairs of the "committees that have legislative jurisdiction over natural resources". Furthermore, it is stipulated that [the legislature] should have access to all the data that is collected. Senator Torgerson pointed out that the legislation specifies that the report shall be submitted to the legislature no later than January 31, 2002.

SENATOR TORGERSON pointed out that the House Special Committee on Oil and Gas (HO&G) deleted the reference to standing committee so that it, as a special committee dealing with natural resources, could be included in this process. There was also an amendment on the Senate floor, which added language requesting a report that would study the possibility of natural gas distribution within the state, by additional pipeline facilities connected to population centers of the state. That language was taken out because the fiscal note went from \$210,000 to approximately \$500,000. Since that floor language dealt with an engineering question and the bill is a financing bill, the language was deleted. Therefore, the successful bid will first have to determine the location of the population centers and then make a determination regarding the size of the pipe and its cost to be laid.

Number 1597

REPRESENTATIVE GREEN provided the committee with the following amendment:

Page 3, line 9, following "chair the":
Insert "Alaska Legislative Council and the"

He explained that the chair of the Legislative Council would be added to those people who will be informed by this study because Legislative Council will be conducting a study during the interim.

SENATOR TORGERSON related his first reaction that with that amendment there would be too many bosses. Although he understood that Representative Green wants a copy of the report, he pointed out that the legislation is referring to the firm actually meeting with the committee chairs and providing progress reports.

REPRESENTATIVE GREEN pointed out much is being done now in regard to the legislature being prepared when the operators provide [the legislature] with their analysis of the gas pipeline. Legislative Council wants to be prepared and "have equal horsepower to guide us in what we think is best for the state," he said. Representative Green expressed the need "for continuity of review."

Number 1745

SENATOR TORGERSON said that he believes that the [House and Senate] Resources Committees will have more meetings on gas line issues than Legislative Council. He expressed the need to make the determination as to whether Legislative Council is going to take the lead on gas line issues so that there isn't duplication of effort. Senator Torgerson remarked that he hadn't envisioned Legislative Council taking the lead with natural gas issues.

REPRESENTATIVE GREEN contended that this [amendment] in no way attempts [to place Legislative Council] in the lead. He pointed out that during the interim unforeseen issues will arise. Those issues will likely require expertise that isn't available in the legislature or the state. Legislative Council has its own budget and if necessary, it could pay to secure the necessary legal, economic, and engineering experts.

SENATOR TORGERSON remarked that although he believes everyone should obtain copies of the report, he wasn't sure how many people should meet with the contractor. Therefore, he thought Representative Green's language may be more appropriate on page 3, subsection (3), which discusses progress reports.

Number 1884

REPRESENTATIVE FATE inquired as to how the studies would be done. He asked if the study embodied in SB 158 and the study by Legislative Council would be parallel studies.

REPRESENTATIVE GREEN explained that he envisions Legislative Council contracting with unaffiliated experts as it did on the

Joint Committee on Mergers. This is intended to ensure there is an unbiased view of the situation or issue. He recalled that when Legislative Council contracted with unaffiliated experts during the merger situation, significantly different conclusions were reached [by the unaffiliated experts and the task force]. Although he doubted that would be the case with this issue, he wanted to be sure that the power to do what is right for the state is available. Representative Green clarified that he wasn't saying that there should be additional bosses.

SENATOR TORGERSON agreed that there may be some studies that one might want to do. However, somewhere during the process it will have to be determined who is hiring for what in order to avoid duplication. He related his view that this looks like a duplicate effort. However, he wasn't sure the amendment hurts anything. He noted that everyone is welcome at these meetings, which will be noticed as are all other meetings.

Number 2026

REPRESENTATIVE GREEN noted that this legislation directs the commissioner of the Department of Revenue, who is chosen by the governor, to prepare this report. He recalled that when this was done before, the legislature didn't become [involved] in the [details] of what was going on and that is what he wanted to avoid. Representative Green asked, "Even though the chairs are kept abreast, will they know that the commissioner's review has gone into the depths that I feel are necessary? They don't necessarily have the horsepower on their own right to do that, whereas the Leg Council does."

SENATOR TORGERSON pointed out that the amendment is speaking to the contractor not to the commissioner.

REPRESENTATIVE GREEN related his belief that if the amendment was put in paragraph (3), then a report from the commissioner may be different if all Legislative Council received was a progress report and had no input on it.

CO-CHAIR MASEK related her belief that the language on page 3, paragraph (2), seems to cover Representative Green's issue.

REPRESENTATIVE GREEN clarified that he is making an analogy to the group that met regarding the merger. He explained:

We thought we were probably knowledgeable enough on our right that we would have been able to understand,

either object, agree, disagree, whatever. At least I found and I would say that my, at that time, cohort on the committee found that ... it's like studying a book of medicine and then going to a surgeon. That people that are experts in ... those three fields specifically, you need them working for you not working for someone else and reporting to you. There is a significant difference; that's the problem with just getting a report or ... progress reports.

REPRESENTATIVE GREEN specified that Legislative Council's involvement would not supersede anything that this group of people would do. Representative Green reiterated that he is merely suggesting that Legislative Council be advised of what's going on as it happens because it may help uncover something that "we" want to know. He said that he wanted to prevent something not being uncovered.

CO-CHAIR MASEK said that she felt that the merger issue was a different issue.

Number 2218

SENATOR TORGERSON related his understanding of Representative Green's concern that if, during the process, the legislature finds that it is receiving faulty information because the contractor is working for the Department of Revenue rather than the legislature, the legislature may have to do its own report. Therefore, he further understood that Representative Green would be more up to speed on the issue or could look "through that" as the report is being reviewed if he was one of the people that received the report.

REPRESENTATIVE GREEN agreed and added, "And ... had the horsepower to do it."

SENATOR TORGERSON pointed out that Legislative Council always has the horsepower to do it. Again, Senator Torgerson remarked that he wasn't sure that Representative Green's amendment hurt anything. However, he interpreted the amendment to say that he couldn't do his job and thus has to have Legislative Council look over him. On the other hand, Senator Torgerson commented that everyone should be involved in the process, to which he didn't object.

CO-CHAIR MASEK said that every legislator has the ability and right to participate in ongoing state issues. Although she

acknowledged the need for legislators to be involved with this issue, she wasn't sure how this amendment fit.

SENATOR TORGERSON reiterated that the amendment doesn't seem to hurt the bill. Furthermore, he noted that he sits on Legislative Council and he or another member of one of the Resources Committees could be designated [as a representative of Legislative Council]. Although he contended that the amendment would create some complication, he said that he didn't object to its addition into the bill.

Number 2330

REPRESENTATIVE FATE pointed out that SB 158 has one more committee of referral. Therefore, if the amendment was moved [and adopted], then it would allow Senator Torgerson and the Senate Resources Committee time to review this.

SENATOR TORGERSON agreed that he could then make any objections in the next committee of referral, the House Finance Committee.

CO-CHAIR MASEK noted that she had a bit of a problem with the amendment because it seems to cause additional time and effort to gather people for meetings.

TAPE 01-37, SIDE B

REPRESENTATIVE GREEN posed a situation in which the two co-chairs and two chairs didn't like the direction of the report. He asked what Senator Torgerson would do in such a situation.

SENATOR TORGERSON remarked that he didn't know what the data would be. He highlighted the fact that in the past, the problem has been that [the legislature] hasn't had the data. Therefore, the bill requires [the committees] to meet and review the data that is building the report. He stressed that the data will be available throughout the process, and furthermore there will be periodic meetings with the contractor.

REPRESENTATIVE GREEN pointed out that the data will be presented by a contractor who is selected by the commissioner as opposed to a contractor selected by the legislature.

SENATOR TORGERSON interjected, "Well, lets vote the bill down and do it all through Leg. Council ... if we want to have our own contractor."

REPRESENTATIVE GREEN said, "That's not the point." He withdrew his amendment and said, "I think we're putting our head in [the] sand by not doing something like this."

Number 2278

REPRESENTATIVE FATE moved to report HCS CSSB 158(O&G) out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HCS CSSB 158(O&G) was reported from the House Resources Standing Committee.

HB 185-ALASKA WATER USE ACT & FEES

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 185, "An Act relating to fees for certain uses of state water and the accounting and appropriation of those fees; relating to authorizations for the temporary use of state water; making other amendments to the Alaska Water Use Act; and providing for an effective date."

Number 2189

MARILYN CROCKETT, Deputy Director, Alaska Oil and Gas Association (AOGA), testified via teleconference. She informed the committee that she has faxed a letter of support to Co-Chairs Masek and Scalzi. She specified that AOGA supports CSSB 139, which was adopted by the Senate Finance Committee. She informed the committee that AOGA encourages the House Resources Standing Committee to adopt a similar substitute [for HB 185], which she understood may be considered today.

Number 2161

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), related his understanding that the committee would be considering a committee substitute (CS) that reflects the changes made [to SB 139, the companion to HB 185,] in the Senate Resources Committee. Therefore, he asked if he should speak to that version.

CO-CHAIR MASEK said that Mr. Loeffler could speak to Version A, the original bill.

MR. LOEFFLER explained that the constitution and the Alaska Water Use [Act] requires one to obtain a temporary water right or water use authorization before withdrawing a significant amount of water from the ground, that is from a stream or lake.

However, the program has received significant funding cuts over the years and "quite frankly, this program is broken," he said. The staff of this program has decreased from 39 staff in the early 1980s to a staff of four, one of which is a section chief. The result of this lack of staff is a backlog. Mr. Loeffler informed the committee that approximately 250 water right applications are received each year as well as about 150 temporary water use permits. He explained that the program is able to keep up with the [temporary] water use permits, but only able to process 100 of the 250 water right applications. Therefore, there is a backlog of 600 applications as well as 3,000 other actions.

MR. LOEFFLER explained the consequences of the backlog. He said, "While DNR processes state interest applications right away, most public and industries have a two to three year delay before getting a permit to withdraw water." He related the situation of a farmer in the Mat-Su who is considering purchasing a significant amount of (indisc.) [irrigation system] because the bank will not give him a loan until he has the water rights. The farmer was told that it would be 2-3 years before he received his water right. Mr. Loeffler said that farmer has a right to be angry because "a delay of two to three years is not the kind of service that our industries desire and it's not the kind of service Alaskans deserve."

MR. LOEFFLER informed the committee that although single family dwellings don't require a water right, many want it, particularly in areas that are short of water. Mr. Loeffler said, "We're telling people, at our current budget level, that we'll never get to them, ever, because we're developing a backlog faster than we're able to process it." On the North Slope this year, staff took some shortcuts and has been the subject of many lawsuits. Consequently, industries are vulnerable, the environment is less protected and people don't have the necessary permits.

MR. LOEFFLER then turned to the three-part solution, of which HB 185 is one part. The first part of the solution is in [recognizing] that "we" can't pretend to do work as if it were the early 1980s nor can [the program] pretend to do the procedures as if there were 39 people to process them. Therefore, within the next two weeks he expected that there would be regulations that would significantly streamline the process. The second part of the solution is the need for more money. He pointed out that even with a streamlined process, more money is necessary. Mr. Loeffler expressed his

appreciation that the House and Senate operating budget includes \$300,000 additional funds for this program. He related his understanding that some Finance members expect that the \$300,000 will be a one-time appropriation and that DNR will make up [the backlog] by charging fees. This is where the bill, the [third part of the solution] comes in.

Number 1983

REPRESENTATIVE FATE moved to adopt CSHB 185 [Version 22-GH1087\C, Luckhaupt, 4/18/01] as the working document before the committee. There being no objection, Version C was before the committee.

MR. LOEFFLER continued with the two purposes of the bill. First, the fee methodology places limitations on what DNR can charge. The changes [to SB 139] in the Senate Resources Committee were done to ensure that the fees would not be raised too high. Mr. Loeffler noted that this bill utilizes a fees methodology pioneered by the legislature last year. This fees methodology is commonly referred to as the DEC fees bill, which "limits what DNR can charge to the reasonable direct costs of processing an application." Therefore, one would be charged just what it cost to do the application plus a \$50 annual fee that was established years ago. Those two charges will allow new applications to process a typical new water right within 60 days and a typical temporary water use application within 15 days. Furthermore, those fees would allow the backlog to be completed in four to five years.

MR. LOEFFLER then turned to the second purpose of the bill, which deals with temporary water use permits. On the North Slope this year, "we" were the subject of a variety of suits. This was, in part, because the temporary water use permits are implied by statute but are really created by regulation. This bill provides explicit statutory authorization for the temporary water use permit program in the way that it has operated for the past 20 years.

MR. LOEFFLER, in response to Representative Kerttula, suspected that the lawsuits were brought on the grounds that [the department] was not adequately protecting the environmental resources of the North Slope. However, Mr. Loeffler related his belief otherwise. In further response to Representative Kerttula, Mr. Loeffler informed the committee that [the department] was, in part, sued because public notice was not provided on certain temporary water use permits. The judge

remanded the suit back to DNR, where he believes it remains today. Mr. Loeffler said, "I believe in the expectation that on large, temporary water use permits we would, in his remand, provide public notice of those permits. That's something I don't believe is necessary." He offered to explain his belief.

MR. LOEFFLER related his belief that [the department] has done a good job in protecting the public resources of the North Slope. He explained that things that are property rights require public notice and thus water rights, a property right, require public notice. However, things that are revocable permits, temporary water use permits, aren't required to have public notice. In general, the coastal districts on the North Slope have the opportunity to request public notice, although it isn't required. That is done through the "ABC" list. However, no coastal district in the state, through the "ABC" list, has required the department to do public notice. Therefore, "the coastal districts have come to the conclusion, then, that there is not significant potential for effects on coastal resources," he surmised. He said, "DNR is not obligated to do it and, I believe is not required to do it." Furthermore, most of these temporary water use permits are construction permits. He explained that temporary water use permits are used in the winter for ice roads and in the summer for the Department of Transportation & Public Facilities (DOT&PF). Frequently, the call will be from DOT&PF saying that they are out of water to mix cement. After [DNR] consults with the Department of Environmental Conservation (DEC) and the Alaska Department of Fish & Game (ADF&G), then the permit can be done quickly. Mr. Loeffler related his belief that because these are construction permits, the cost of delay to Alaska's industries could be high and "I believe there is limited, if any, environmental benefit."

Number 1738

REPRESENTATIVE FATE turned to the instances in which lakes have reverted from federal to state [control]. He posed a situation in which a weir is in a lake that changes from federal to state control. When under state control it is determined that the weir is no longer in use. In such a situation, do the permits to take that weir out have to be obtained?

MR. LOEFFLER answered yes, if the water is going to be used for another purpose such as drinking.

REPRESENTATIVE GREEN pointed out that the CS changes the fiscal note. However, the first part of the fiscal note analysis is

the same while there is a significant difference in the program receipts and the general fund. Therefore, he requested an explanation.

MR. LOEFFLER explained that the original fiscal note expected a water use fee, which would be charged to the owners of current water rights. That fee was to fund the entire fund. However, the CS provides that people will only be charged for the services provided and thus people can't be charged for the backlog. Therefore, general funds are necessary to attack the backlog. So, the current fiscal note has no general funds in FY02 and thus there is no amount in the operating budget. However, in FY04, FY05, and FY06 the only additional general funds, \$115.5, are designed to attack the backlog. In FY07 that is no longer necessary because the backlog will have been eliminated. He noted that FY03 is a transition year.

REPRESENTATIVE GREEN related his understanding that in the original fiscal note, FY02 and FY03 would have been the backlog while the current fiscal note stretches the backlog over a longer period.

MR. LOEFFLER didn't agree with Representative Green's understanding and pointed out that the backlog was going to take four or five years in the original fiscal note. Mr. Loeffler explained, "It required \$300,000 in FY03, in FY02. That same amount would be here in FY02, except we took it out because it's in the operating budget. In FY03 we had a \$100,000 because in that scheme of charging, that's what we thought we needed to -- we wouldn't get all the income ready in one year. In the current scheme of charging, we think we need \$215,000 next year." Mr. Loeffler clarified that the previous version of [the bill and fiscal note] envisioned the department being able to charge things, an annual water right fee, that it can't [under Version C]. Therefore, there is the need for more general funds.

Number 1469

TOM CRAFFORD, Alaska Miners Association (AMA), testified via teleconference. Mr. Crafford expressed support for HB 185 with the inclusion of the amendments that were included in CSSB 139. He explained that the AMA recognizes the need to provide adequate and reliable funding for water rights and permitting functions with DNR. Furthermore, AMA believes that the adoption of the approach of the DEC fees bill is an appropriate means to achieve this.

Number 1392

BOB STILES, President, Resource Development Council (RDC), testified via teleconference. Mr. Stiles announced RDC's strong support of HB 185 with the additions made in the amendment [to SB 139]. The council has worked closely with DNR on the original version of the bill and developed a charging scheme. Mr. Stiles noted that RDC is supportive of the issues addressed in HB 185, particularly addressing the backlog.

CO-CHAIR MASEK directed attention to page 5, lines 8 and 9, subsection (e), and requested that Mr. Loeffler discuss the statute, AS 46.15.080, mentioned in that subsection.

Number 1256

MR. LOEFFLER explained that the AS .080 is the best interest criteria used to grant a property right that requires a finding and a specific determination. The department wants to ensure that the structure and finding doesn't [necessitate] come to temporary water use permits. He clarified:

While we want to protect fish and wildlife, ... public health, and any public interest, we don't want to have to do a particular appealable finding and have the court require us for temporary water use permits But we want to make it very clear that they're not a property right, they don't have the procedures that are required of disposing of a property right.

Therefore, two things were added in the Senate Resources Committee in order to address AS .080. That committee added the last part of subsection (f), which ensures that the department will impose reasonable conditions or limitations to protect fish and wildlife habitat, public health, or other public interests. Furthermore, [the Senate Resources Committee's amendment] ensured that the department would consult with ADF&G and DEC.

CO-CHAIR MASEK turned to the list of things that a person would have to do in order to obtain a permit.

MR. LOEFFLER explained that when the department grants a permit, there is review by DNR, ADF&G, and DEC - if they're interested - in order to determine that this [permit] isn't going to harm fish and wildlife and public health. Rather than writing a

separate finding, the permit is issued. However, the permit is appealable.

CO-CHAIR MASEK related her belief that that's weakening the provisions to protect the public.

MR. LOEFFLER pointed out that this is the way the statute as well as the regulations have worked for 20 years. There hasn't been a separate document explaining why the department is issuing the permit for temporary permits; that has only been done for disposable interests.

Number 1110

REPRESENTATIVE KERTTULA asked whether a coastal district requesting greater notice and latitude in commenting would be given such.

MR. LOEFFLER said that happens through the coastal zone process, which he didn't thoroughly understand. He did say that the department would certainly work with the coastal district.

CO-CHAIR MASEK inquired as to how small multiple-use wells would be monitored or permitted under this bill.

MR. LOEFFLER remarked that typically the department doesn't require a lot of monitoring. He explained that a community well is a water right and thus isn't impacted by this statute, save the fees portion. Therefore, the water right procedures would be done as quickly as possible and a finding written. In further response to Co-Chair Masek, Mr. Loeffler confirmed that water rights are permanently attached to land titles and transfer with the land. However, the owner could sever it, if the owner wishes. Because this is a property right, the department can't take [the water permit] away without just compensation or loss.

CO-CHAIR MASEK inquired as to how much water use is exempt from permits.

MR. LOEFFLER answered that under current regulations 500 gallons a day for everyone and 1,500 gallons a day for residential use is exempted.

CO-CHAIR MASEK asked how cities will pay for water.

MR. LOEFFLER explained that currently once a water right is obtained, a \$50 fee is charged. He acknowledged that it isn't a large charge.

CO-CHAIR MASEK asked if there is a large backlog of permits.

MR. LOEFFLER reiterated that for water rights, there is a backlog of 600-700 applications. That is quite a bit when one considers that the department does 100 a year. Furthermore, the department has a backlog of 3,000 other things, which includes transfers, amendments, extensions, et cetera. Mr. Loeffler said, "I believe that backlog is an insult to our citizens and our industries."

REPRESENTATIVE FATE inquired as to why there is such a backlog in water rights permits.

MR. LOEFFLER reiterated that the department's funding has fallen such that there are only about 3.5 staff and there is more work than 3.5 people can do. He noted that two years ago there were nine staff and in the early 1980s there was a staff of 39.

CO-CHAIR MASEK announced that HB 185 would be held.

HB 22-MARINE PASSENGER VESSELS

CO-CHAIR MASEK announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 22, "An Act relating to certain passenger vessels operating in the marine waters of the state; and providing for an effective date." [Before the committee is CSSHB 22(TRA).]

REPRESENTATIVE KERTTULA, testifying as the sponsor, explained that SSHB 22 is a sampling, registering, and reporting requirement for the cruise industry in Alaska. Under a voluntary program last summer, the cruise industry took it upon itself to perform water quality sampling of their discharges. Those discharge samples had unexpected high fecal coliform counts in the graywater, which is the water from the laundry and showers. Consequently, the cruise industry has worked towards meeting higher expectations. Representative Kerttula explained that SSHB 22 establishes a process whereby companies will [perform] sampling and the Department of Environmental Conservation (DEC) will be able to obtain the sampling. Furthermore, this legislation will allow the state to mesh with federal legislation that U.S. Senator Murkowski put in place last year. She specified that a sponsor substitute (SS) was

introduced in order to mesh with U.S. Senator Murkowski's legislation. The House Transportation Standing Committee worked on a compromise with the industry and Representative Kerttula, which resulted in the committee substitute (CS) that was presented to the House Transportation Standing Committee yesterday. Fundamentally, the CS remains a sampling, registering, and reporting bill.

REPRESENTATIVE KERTTULA informed the committee that she has two amendments that she will be offering for the committee's consideration. She announced that she would withdraw the amendment labeled 22-LS0238\P.2, Lauterbach, 4/20/01, which reads as follows:

Page 3, lines 9 - 16:

Delete all material.

Insert a new subsection to read:

"(c) Except as provided in (f) of this section, a person may not discharge graywater from a large passenger vessel into the marine waters of the state that fails to meet the effluent standards for graywater established by the Administrator of the United States Environmental Protection Agency under sec. 1407 of the federal cruise ship legislation. If the Administrator has not adopted these federal effluent standards by January 1, 2003, then, beginning January 1, 2003, and ending when the Administrator does adopt these federal effluent standards, a person may not, except as provided in (f) of this section, discharge graywater from a large passenger vessel into the marine waters of the state that has a fecal coliform bacterial count greater than 200 colonies per 100 milliliters or suspended solids greater than 150 milligrams per liter."

She explained that although there were no performance standards in SSHB 22, there are now a few performance standards in [AS 46.03].463 of the CS. For the record, Representative Kerttula stated that she intends the performance standards to be the floor and not the cap. She related her belief that the cruise industry would probably surpass these performance standards fairly soon.

REPRESENTATIVE KERTTULA turned to Amendment 1 [22-LS0238\P.3, Lauterbach, 4/20/01], which is merely a housekeeping measure that the drafter feels appropriate. Amendment 1 reads as follows:

Page 5, line 13:
Delete "and (d)"

Page 5, line 15:
Delete "(e) - (g)"
Insert "(d) - (f)"

Page 5, lines 22 - 30:
Delete all material.

Reletter the following subsections accordingly.

Page 5, line 31, through page 6, line 1:
Delete "other than a release covered by (c) of
this section"

Page 6, line 25:
Delete "(e)"
Insert "(d)"

Page 6, line 27:
Delete "(e)"
Insert "(d)"

Number 0619

REPRESENTATIVE McGUIRE moved that the committee adopt Amendment 1. There being no objection, Amendment 1 was adopted.

REPRESENTATIVE KERTTULA turned to the final amendment [22-LS0238\P.1, Lauterbach, 4/20/01], [Amendment 2] reads as follows:

Page 8, line 16:
Delete "exemptions to"

REPRESENTATIVE KERTTULA characterized [Amendment 2] as a substantive amendment because it addresses the fact that SSHB 22 grants DEC the authority to implement necessary regulations. Although this legislation doesn't propose a large program and there is a minimal fiscal note, DEC will still try to work out exactly how the sampling will be done. Therefore, DEC does need some authority. The language that came out of the House Transportation Standing Committee is somewhat ambiguous because it says "The department may adopt regulations that are necessary for the implementation of exemptions". Therefore, the concern

is that the language may be misread to mean that it only applied to the implementation of exemptions. Representative Kerttula acknowledged that the industry, as well as herself, have only had a short time to view CSSSHB 22(TRA). Although she wasn't sure of their position on the CS, she believes that [everyone] recognizes the need for reasonable regulations by [the state's] agencies. She noted that this legislation does have another committee of referral and thus the cruise industry will be able to review the [CS] further and can voice concerns at that committee.

There was discussion regarding which amendment was being discussed.

REPRESENTATIVE FATE asked if AS 46.03.460-46.03.490 describe the exemptions, if any.

REPRESENTATIVE KERTTULA explained that the [regulations section] would provide the department the authority to deal with the statutes and implement anything necessary. Unless directly stated in the statute, the department wouldn't have to require the company to do it and thus, in that regard, there would be exemptions and additions.

REPRESENTATIVE FATE expressed his discomfort in making exemptions when he really isn't familiar with that particular statute.

REPRESENTATIVE KERTTULA explained that Amendment 2 would delete the language "exemptions to" because that language could be interpreted to mean that DEC can only implement exemptions to the statutes. Normally, a statute is put in place and then the agency determines how the sampling would be done.

REPRESENTATIVE MCGUIRE agreed with Representative Kerttula regarding the possible interpretation of the "exemptions to" language. She remarked, "In a sense, the bill means nothing if you have no ability to implement it." Representative McGuire suggested that Amendment 2 could be amended on page 8, line 16, delete "to", insert "and the implementation of". She agreed that Representative Fate has a good point in that the [original] deletion [in Amendment 2] may, in some way, suggest that "we" don't want those exemptions implemented as well.

REPRESENTATIVE KERTTULA said she accepted that as a friendly amendment.

REPRESENTATIVE McGUIRE clarified that she would like her amendment to Amendment 2 to be conceptual. Amendment 2, as amended, reads as follows:

Page 8, line 16:

Delete "to"

Insert "and the implementation of"

CHAIR MASEK asked if there were any objections to Amendment 2 [as amended]. There being no objection, Amendment 2 [as amended] was adopted.

TAPE 01-38, SIDE A

Number 0010

ROBERT REGES, Member, Cruise Control, Inc., explained that Cruise Control, Inc., is a citizens group working to mitigate the impacts of industrial tourism. Mr. Reges said that he has, in the last 24 hours, reviewed CSSSHB 22(TRA) and thus he wanted to address the following four points. First, Mr. Reges turned to the issue of fees. Drawing on his statutory litigation experience, Mr. Reges pointed out that the ability to charge fees isn't necessarily assumed. Therefore, he requested the inclusion of intent [language] or explicit language to that effect. The explicit language, "including the assessment of fees" would be inserted on page 8, line 16. He noted his preference for including the explicit language.

MR. REGES moved on to his second point and directed attention to page 7, line 28, which is the penalty section. He explained, "Subsection (a) is designed to preclude operators from using Alaska's court system if they have failed to register." Such statutes tend to be narrowly construed because they work [with] forfeiture. From his experience, he believes that, unless the legislature is very specific, the judges will read that penalty out of existence. Therefore, he suggested the following: page 7, line 28, after "claim", insert "crossclaim". He explained that there are basically the following three types of claims: a claim, a counterclaim, and a crossclaim.

MR. REGES continued with his third point of discussion, the title and its notion of permits. He acknowledged that initially, permits weren't part of this bill, but were in the governor's proposed bill. Mr. Reges related his belief that the current title doesn't allow for an open and thorough discussion regarding whether a permitting regime might be the most efficient way to implement "what it is we're trying to do here."

He pointed out that his industrial clients are often pleased to have a specific permit for them because it can take their unique needs into account. Furthermore, a specific permit would be an excellent vehicle by which the department typically accesses fees. He reiterated that the title doesn't leave room for discussion regarding whether there should be a permitting regime or not, which he finds regrettable. Therefore, he hoped that the title could be loosened in order to allow such a discussion.

MR. REGES concluded with his fourth point regarding the deletion of the monitoring, reporting, and recordkeeping of air emissions from CSSSHB 22(TRA). He recalled that the rationale for that deletion was that air emissions are addressed under existing law. He noted that he has worked extensively with air emission laws. However, if air pollution from cruise ships is left to fall under the existing statutes, there will be ambiguities because these laws and regulations weren't written with these sources of air pollution in mind. Therefore, monitoring, recordkeeping, and reporting under existing air emission laws would wind up being done in court or under an executive fiat under the existing authorities. For that reason, Mr. Reges advocated that the very minimal air emission requirements contained in SSHB 22 be reinserted. He specified that this language appeared on page 2, lines 25-31, of SSHB 22. Mr. Reges acknowledged that the cruise industry is concerned that self-reporting would "lead to turning oneself in for violations." However, Mr. Reges indicated the ability and his [preference] for immunizing that kind of data [self-reported air emission data] as is done with other self-audits. Mr. Reges explained that this type of data would allow knowledge regarding what is the best available control technology and who does and doesn't break the standard. He recognized that operators are engaged in a variety of efforts in order to reduce their emissions, but there is no way to compare and contrast the success of those efforts unless the monitoring, reporting, and recordkeeping is reinserted into the bill.

Number 0618

CO-CHAIR SCALZI addressed Mr. Reges' points on the fees and the permitting title change. Co-Chair Scalzi asked if the expansion of fees, included in [sub]section (a), would suffice so that the title wouldn't have to be changed.

MR. REGES said that he was not an expert in regard to the legislative permutations of the title.

Number 0689

RANDY RAY, U.S. Cruise Ship Association, testified via teleconference. He informed the committee that the U.S. Cruise Ship Association is comprised of the small U.S.-flagged cruise ships. Mr. Ray noted that he had obtained the bill last night and thus the association didn't have a definitive position yet. However, he related the belief that the bill is moving in the right direction and due to the short timeframe, he urged the committee to keep the bill moving forward. He noted that the [association] would work with the sponsor and the legislature through the process.

CHAIR MASEK asked if there was anyone else who wished to testify. There being no one, the public testimony portion was closed and the committee discussion began.

Number 0779

REPRESENTATIVE KERTTULA remarked that she believes she is in agreement with Mr. Reges' suggestion to include the word "crossclaim" in the penalties section. Therefore, Representative Kerttula moved that the committee adopt the following conceptual amendment, Amendment 3:

Page 7, line 28, after "claim",
Insert "crossclaim"

REPRESENTATIVE FATE objected and asked if [Amendment 3] would change the intent of that particular clause.

REPRESENTATIVE KERTTULA replied no.

REPRESENTATIVE FATE related his understanding that [Amendment 3] would add one more claim in order to eliminate any possibility of any further litigation. Representative Fate withdrew his objection.

There being no objection, conceptual Amendment 3 was adopted.

REPRESENTATIVE KERTTULA also indicated agreement with Mr. Reges in regard to including the assessment of fees in the regulations section on page 8, line 15. She pointed out that the fiscal note was moved from the House Transportation Standing Committee. Furthermore, she said, "We clearly envisioned DEC to be able to assess a fee." Although in the past the industry has said they have been willing to work with that, she wasn't sure because she

hasn't spoken with the industry on this particular matter. Therefore, the record could reflect that intent or there could be an explicit amendment. She left that decision to the committee.

CHAIR MASEK pointed out that this bill has a House Finance Committee referral and thus she believed that Representative Kerttula could speak with the industry and the House Finance Committee members on this issue.

REPRESENTATIVE KERTTULA turned to Mr. Reges' comments about the permitting and the air emissions and said that she would do her best to discuss those with the industry and the entire legislature in order to resolve those.

Number 0988

REPRESENTATIVE FATE moved to report CSSSHB 22(TRA) as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSSHB 22(RES) was reported from the House Resources Standing Committee.

The committee took a brief at-ease from 3:45 p.m. to 4:10 p.m.

HB 144-GUIDES FOR NONRESIDENT MOOSE HUNTERS

CO-CHAIR MASEK announced that the final order of business would be HOUSE BILL NO. 144, "An Act requiring nonresident hunters to be accompanied when hunting moose; and providing for an effective date."

Number 1062

REPRESENTATIVE FATE moved to adopt CSHB 144 [Version 22-LS0602\J, Utermohle, 3/21/01] as the working document before the committee. There being no objection, Version J was before the committee.

Number 1133

REPRESENTATIVE KEN LANCASTER, Alaska State Legislature, testified as the sponsor of HB 144. Representative Lancaster informed the committee that early in the session he was contacted by a constituent, who is a guide, regarding the actions of the Board of Game. Working with the constituent and the Alaska Professional Hunter's Association (APHA), HB 144 was

drafted. He informed the committee that he fully supported the committee substitute (CS). Representative Lancaster said, "The bill will assure that nonresident moose hunters are given the assistance needed, by someone accountable for legal hunting and proper care of game in the field during the time of hunting." This legislation should increase the moose population, alleviate the biological and conservation concern regarding moose populations, and assure more stable subsistence allocation for resident moose hunters. Furthermore, the bill will curtail the increase of wanton waste and moose hunting violations committed by unguided nonresident moose hunters while protecting the economically viable state guide industry. Representative Lancaster pointed out that the CS allows for the "buddy hunt," which means that one nonrelated person can hunt moose with a resident.

Number 1224

VIRGIL UMPHENOUR testified via teleconference. He stressed that he was speaking on his own behalf, although he informed the committee that he is a big game hunting guide, owner of a meat and fish processing facility in Fairbanks, and a member of the State Board of Fisheries. Mr. Umphenour felt that this bill is necessary. As a guide, he has seen how nonresident hunters have increased such that drawing permits are now done. Mr. Umphenour pointed out that the Board of Fish & Game can only manage by methods and means. If so desired, nonresidents can be restricted entirely, which just happened in game management unit 13.

MR. UMPHENOUR, as an owner of a meat processing facility, says the biggest problem is nonresidents bringing in filthy moose meat. Most registered guides, such as himself, hire the local Native Alaskans. Furthermore, he only allows the hunter to take one hind leg and the back strap home, which can be 150-200 pounds of meat. The rest of the meat is taken care of by himself and his guides. The meat is aged for a couple of days and then taken to the villages for distribution to the elderly and single mothers.

MR. UMPHENOUR informed the committee that the biggest complaint he hears from advisory board members throughout the state is that transporters drop off their clients in easy drop-off sites and thus they compete with the local subsistence users. Much conflict over subsistence happens. Therefore, he felt that [CSHB 144] would alleviate many of the problems. He concluded by saying that this is a good bill.

Number 1378

CLARK WHITNEY testified via teleconference. Over his nearly 40-years in Alaska, he has trapped, fished, and flown over most of Alaska and thus he has a close association with the wildlife of Alaska. He also informed the committee that he has served on the local fish and game advisory board as well as (indisc.). Mr. Whitney noted that he is most familiar and concerned with game management units 15, 16, 9, 17, and 19. He pointed out that there is very little calf recoupment due to predation. Mr. Whitney urged the committee's support of HB 144 for the following reasons. Firstly, the current administration has eliminated practically all predator controls statewide. Therefore, there has been widespread depletion, specifically of moose and sheep. This fact has been recognized by the legislature, the Board of Fish & Game, and the Native community. Despite of efforts of these various groups, the governor has refused to change the policy regarding these issues. Mr. Whitney predicted that the governor will not change his stance for the rest of his term. Furthermore, the aforementioned game populations have been hamstrung within the Department of Game due to their disagreement with the governor's agenda.

MR. WHITNEY acknowledged that many factors have contributed to the decline of Alaska's game stocks, such as predation by bears and wolves, winter kills, and illegal takes. Mr. Whitney related his belief that much of the illegal takes can be contributed to nonresident hunters who are allowed to hunt without supervision. [This lack of supervision] results in the killing of "sub-legal" animals. The aforementioned problem can be eliminated through the implementation of HB 144. Furthermore, HB 144 would alleviate conflicts with Native groups and eliminate wanton waste. Although Mr. Whitney believes that passing HB 144 will not solve the current crisis with depleted stocks, he believes it is a step in the right direction. Mr. Whitney urged the committee to expedite this bill and implement it by 2002.

Number 1530

DICK BISHOP, Alaska Outdoor Council (AOC), informed the committee that the AOC opposed HB 144. He noted that the committee should have a letter from the AOC to that effect. The basic problem, the shortage of resources, is not addressed by the bill. In many cases, the shortage of resources is related to the lack of effective management. Mr. Bishop related his

belief that it is clear that the Board of Game has the means to address the difficulties. For example, in units 19A & B nonresident hunters must draw permits and [thus the board] has limited the numbers of nonresidents that can hunt in those areas under that permit provision. The restriction is about at the level of the harvest two years ago. He provided another example in which nonresident hunting for black bear had grown too much on Kuiu Island, which led the Board of Game to pass a regulation that didn't allow any nonresident black bear hunting until the population recovered. Therefore, the AOC didn't see the need to pit guides against transporters. He indicated that this [bill] has developed from a concern about hunters going out with transporters; however, a high proportion of those are Alaskan residents, not nonresidents.

MR. BISHOP turned to the recovery of moose populations and pointed out that it is unlikely that the proposed restrictions will have a significant impact. In most cases, residents or nonresidents, hunters with guides or transporters, are looking for male moose with a nice rack as well as the food. Therefore, Mr. Bishop felt that [HB 144] is a measure that is not the appropriate approach to address the problems. Furthermore, the nonresident hunters make up a relatively small portion of the moose hunting public, only 8 percent statewide. "Overall, we don't think that it's an appropriate bill. It can't ... be justified in the same basis as guides were originally justified when that was put in the statute on the basis of the need to ensure safety of nonAlaskans. So, we would like you to not pass this bill," he said.

CO-CHAIR SCALZI mentioned the possibility of an amendment that would insert language allowing the local game boards latitude to address this problem on an area-by-area basis. He asked if Mr. Bishop viewed that as a solution.

MR. BISHOP asked if he was referring to requiring guides on a case-by-case basis.

CO-CHAIR SCALZI answered yes and specified that if the legislation was such that the Board of Game statutes were amended to allow the board to create this provision on an area-by-area basis. He asked if the AOC would prefer something like that over a statewide solution.

MR. BISHOP said that he didn't believe that addressed the basic problem either. That is, if the problem is resource conservation or rather providing adequate populations. He

pointed out that although this [bill] may alleviate some concerns regarding people hunting properly, there are already laws on the books that address that. Therefore, he didn't believe Co-Chair Scalzi's suggestion would be that helpful.

REPRESENTATIVE MCGUIRE asked if Mr. Bishop is aware of any other states that have laws such as HB 144.

MR. BISHOP said that he didn't recall. However, he did recall seeing an article about increasing guides in New Mexico, which created a backlash that led nonresident hunters to boycott hunting in New Mexico. There was such a fuss, that the law was repealed and all guide requirements were removed in a very short time.

Number 1854

GREG ROCZICKA, Orutsararmuit Native Council (ONC), testified via teleconference. He informed the committee that ONC is in support of this bill. Although he felt that the uncontrolled predator numbers is the primary factor in the decline of the moose population, he also felt that the nonresident hunting component is an increasingly significant impact that needs to be addressed. The nonresident hunting numbers are rising and there is no end in sight. In some areas, nonresident hunters outnumber resident hunters by 5:1 and statewide nonresident hunters outnumber resident hunters by 3:1. Earlier it was mentioned that overall statewide [nonresident hunters are] only 6-8 percent [of those who hunt in Alaska]. However, if one includes the game management units that contain the large urban centers: 14, 15, and 20, then the percentage [of nonresident hunters in Alaska] increases to 20 percent. Mr. Roczicka identified the crux of this matter as the transporter industry for which there is basically no control. "There is no onus of responsibility," he said. He explained how transporters, who bring in large numbers of hunters, have a larger impact than the smaller numbers of hunters brought in by guides.

MR. ROCZICKA noted that he is also the Chair of the Board of Game, which discussed this legislation as well. The board didn't take a position on this legislation. The board's concern is similar to that expressed by the AOC, that is that this [legislation addresses] a small portion of a larger problem. Mr. Roczicka urged the committee to review the board's resolution 98-127, which requested that the legislature put the Commercial Services Board back in place. He remarked that the

elimination of nonresident hunts and the guide industry is where things are headed [without this legislation].

Number 2091

ALEX TARNAI, Trapper, Nowitna Wildlife Refuge, testified via teleconference. He informed the committee that he has lived on the Nowitna River for 25 years, the last ten of those years he has had a guide license. Mr. Tarnai announced his support of this bill. He discussed the increase in nonresident hunters in his area and estimated that nonresident hunters in his area outnumber resident hunters by 3:1 and 5:1 in some areas. Furthermore, he felt that nonresident hunters are not qualified to judge [the size of] moose. He related first hand situations in which he saw illegal moose taken and not reported and taken and left in the field. Also, the air service that brings the hunters in has no responsibility. Therefore, there is room for violations. In response to an earlier question, Mr. Tarnai informed the committee that Wyoming has a law that requires a nonresident hunter to be guided by a state certified guide when in a wilderness area.

CO-CHAIR MASEK inquired as to where Mr. Tarnai obtained the numbers he used in his testimony.

MR. TARNAI clarified that the numbers come from his personal observation as well as the U.S. Fish & Wildlife Service in Galena, which has a check station at the mouth of the Nowitna River. He noted that he kept a record of how many hunters went up by boat. However, the U.S. Fish & Wildlife Service at the Nowitna Wildlife Refuge doesn't have any record regarding how many hunters are flying into the area. He specified that he was referring to the nonresident hunters. Mr. Tarnai added that he spoke with several of the hunters and found that hunts in the Nowitna Wildlife Refuge were being sold as a package for \$3,500, which included airfare.

Number 2313

TOM JOHNSON, High Adventure Air, testified via teleconference. He noted that the sponsor of HB 144 and many members of the House and Senate Resources Committees should have a letter from High Adventure Air that details why they are in opposition to HB 144.

Number 2374

NEIL WEBSTER, Beardown Adventures, testified via teleconference. Mr. Webster requested that the committee move HB 144 out of committee today.

TAPE 01-38, SIDE B

MR. WEBSTER informed the committee that he has a long-standing history in game management unit 16B, which is where he started guiding and personal hunting in 1972. This unit has a unique situation because there is some private land and access is controlled, and furthermore there is no competition with transporters or other hunters. Both residents and nonresidents are strictly controlled [in this unit]. Mr. Webster informed the committee that in 1995 there were 82 nonresident hunters, which increased to 118 nonresident hunters in 1999. With regard to guided moose hunters, such hunts grew from 38 in 1995 to 44 in 1999. Although those numbers don't show a large increase, the transporter numbers do because in 1995 there were 11 drop offs, which increased to 40 in 1999. That is a 300-400 percent increase in nonresident hunters, which is evident in many of the game units. Mr. Webster said, "Unfortunately, we are in a situation where we no longer have a valid wildlife management program. We do not control the predators. All we're involved with now is controlling the hunting groups." The situation has reached the point at which the guide industry will take a "hit on the chin." Personally, Mr. Webster said that he would face some financial loss due to the Board of Games' closure of unit 16B. He pointed out that the closures of units 13, 17, and 19 are coming. He questioned when the closures would stop. If a predator control program can't be stopped, then these nonresident party hunts have to be stopped. He acknowledged the point that this legislation is merely a band aid when a tourniquet is necessary. To that he said, "But you don't eat a moose in one bite; you eat it a little bit at a time." This bill is necessary "as a positive step to protect this industry." Mr. Webster indicated agreement with Mr. Roczicka in that a multi-million dollar guide industry may be jeopardized because the state can't implement a valid predator control program. Mr. Webster urged the committee to forward HB 144. However, he expressed concern that the bill he has allows a resident to take out three nonresident hunters, which he considered a party hunt.

Number 2242

DAVID HAEG, Director, Alaska's Western Wildlife Alliance (AWWA), informed the committee that AWWA consists of people who are very dependent upon Alaska's wildlife resource from both a

subsistence and economic point of view. He said that AWWA strongly urges the committee to support the CS. This legislation would effectively solve the problem of illegal or "sub-legal" takes, subsistence related conflicts, and violations of wanton waste laws by unguided nonresident moose hunters. This problem has grown such that now it threatens subsistence and guide use of the state's moose resource. Both the aforementioned uses are vitally important to many parts of rural Alaska. A resource as important as moose should be protected from waste and other abuse and thus a guide requirement for nonresident hunters will help achieve that.

MR. HAEG informed the committee that the 1,000 guided nonresident moose hunters bring in over \$14 million, primarily to rural Alaska. The over 2,000 nonguided nonresident moose hunters bring in just over \$6 million. "We should not jeopardize a \$14 million industry with a hunting segment which not only accounts for most cases of waste and conflict, but which, with its rapidly rising numbers, is overtaking a declining resource," he said. In conclusion, Mr. Haeg noted that AWWA and APHA support the buddy hunt amendment with a limit of one nonresident per resident being able to come up per year.

Number 2144

REPRESENTATIVE STEVENS turned to the earlier mention of the waste that occurs as a result of nonresident hunters. He understood the implication to be that there is no waste from resident hunters. He asked if Mr. Haeg could provide further information on that notion.

MR. HAEG noted that he had provided committee members with a letter from Fish & Wildlife Protection in King Salmon, which says that the only cases of waste found were from nonguided nonresidents. In the last several years they have found no waste from guided nonresident hunters. He indicated that another fish and wildlife officer from up North had promised him a letter that related the same findings as the letter pertaining to King Salmon. Mr. Haeg informed the committee that the Native Alaskans that have contacted him have great concern with the nonguided [nonresident] hunters that are dropped off and take rafts down the rivers. When the hunters "pull-out" in the villages, none of the meat is usable. Such cases aren't very well-documented. He specified that he obtained his information last year.

CO-CHAIR MASEK inquired as to where Mr. Haeg is obtaining his figures that relate to saying that nonresident hunters are responsible for the wanton waste violations.

MR. HAEG answered that much of that information was drawn from Proposal 114, which was amended by the Board of Game. He read the following paragraph from Proposal 114:

In recent years, the Board of Game has received numerous complaints and concerns regarding the rapid increase and no upper limit to the numbers of hunters using outfitters and air taxi drop-off services, illegal or sub-legal take, subsistence-related conflicts, and violations of wanton waste laws are of significantly greater proportion for unguided nonresident hunters using these services.

CO-CHAIR MASEK expressed her difficulty in determining whether a hunter is a resident or a nonresident. She seemed to think that much of this information is from one area of the state and thus isn't a statewide problem. She asked if the people testifying before the Board of Game are from a specific game management unit area.

MR. HAEG said that he has received reports from almost down to the Alaska Peninsula up to Fairbanks and east. He noted that most of the complaints are coming from the rural areas, mainly along the river corridors.

MR. HAEG, in further response to Co-Chair Masek, reiterated that AWWA supports this legislation as does APHA.

Number 1905

REPRESENTATIVE McGUIRE referred to a bar chart that illustrates the number of moose hunters by origin. She said she understood the chart to say that the number of hunters has decreased over the last five years.

MR. HAEG agreed.

REPRESENTATIVE McGUIRE said then that the number of hunters in the field has decreased and yet, moose are on the decline. Therefore, she asked if any other factors would contribute to the moose decline other than wanton waste of nonresident hunters.

MR. HAEG agreed that there are other factors that have contributed to the decline of the moose. He echoed earlier testimony that predation is probably the primary factor in the moose decline. However, "we" haven't been able to do much about predation. Therefore, predation combined with other problems from nonresident hunters are threatening a large rural industry, guiding. He said that [AWWA] would agree that addressing predation would be a more effective solution, which they have tried. Therefore, this legislation addresses another part of the problem that can be addressed, nonguided nonresident hunters.

REPRESENTATIVE McGUIRE asked whether Mr. Haeg was of the opinion that if HB 144 passes, the problem will be alleviated.

MR. HAEG replied no, although he felt that the problem would be "eased." In the long term, this legislation will help. Mr. Haeg explained, "Either you can allow nonguided hunters to keep coming to Alaska ... and them adding to the problem and then just shutting off all nonresident hunting and killing the guide industry. Or, you can start cutting back ... part of the effort."

REPRESENTATIVE McGUIRE interjected that she has heard two different things labeled as the issue: wanton waste and the guiding industry.

MR. HAEG explained that rural Native communities started with the wanton waste issue. Although guides said that they weren't part of that problem, the Board of Game has to limit guiding as well as nonguiding. In work with the Native communities, the Native communities have agreed that guiding is not the problem but rather the problem is the nonresidents that aren't guided. However, the Board of Game can't differentiate between guided and nonguided hunters. Therefore, "the Board of Game, to address the problem of the Natives, has to use a sledge hammer, although ... they say that they would ... like to be able to do something else." So, the [goal] was to address wanton waste, but in the process it has jeopardized the guide industry, who doesn't place as near the impact on the environment as the nonguided hunter.

Number 1724

REPRESENTATIVE McGUIRE related her understanding that there are enforcement mechanisms in place for wanton waste; it is illegal.

Therefore, she asked if the [problem] is that the current law isn't being enforced.

MR. HAEG agreed that lack of enforcement is part of it. However, he pointed out that probably the largest part of that is the fact that the guide is responsible for that hunter. Mr. Haeg pointed out that when a hunter commits a crime, the guide is the first one charged. However, the drop-off service isn't held accountable.

REPRESENTATIVE MCGUIRE posed the possibility of drafting a bill that would hold drop-off services liable for wanton waste and asked if that would address the same problem.

MR. HAEG replied, "It possibly would, but we're also looking at a diminishing resource and we'd like to try slowing down the effort." He recalled that such an effort was tried several years ago, but it went nowhere.

Number 1625

REPRESENTATIVE CHENAULT related his understanding that there are roughly 2,000 nonguided [nonresident] hunters. According to the bar chart, Representative Chenault estimated that there were probably 500 guided nonresident hunters, 300-400 nonresident hunters that are transported, and then the solo nonresident hunter. He posed a situation in which HB 144 was enacted and the approximately 1,000 solo nonresident hunters came forward and wanted to take a guided hunt. In such a situation, he wondered whether the purpose [of HB 144] had been defeated because, in his opinion, the guide would take as many people hunting as allowed or as many as the guide had the opportunity to take.

MR. HAEG compared a guide to a farmer because the guide "is fixed in a spot." Mr. Haeg informed the committee that he has dramatically cut back his hunts this year because he knows what is happening. He further informed the committee that he has a fixed lodge and through the guide board he is bound to three small areas. If he over harvests in his areas, then he is cutting his own throat. However, an air taxi can go in and find groups of moose and annihilate them and then fly elsewhere. Mr. Haeg noted that he actually polices the area and reports any abuse to fish and wildlife protection because anything happening in his area will haunt him in future years.

REPRESENTATIVE CHENAULT related his understanding that as a guide, one can only guide in a particular area and thus cannot guide in other spots in the state.

MR. HAEG clarified that he is allowed three fairly small specific areas. Although he is allowed to change those areas, most guides like himself have fixed lodges that are impossible to move.

Number 1481

REPRESENTATIVE STEVENS asked if Mr. Haeg is a member of the National Rifle Association (NRA), which has sent a letter in strong opposition to this legislation.

MR. HAEG affirmed that he is a member of the NRA, but that he has not seen the letter.

REPRESENTATIVE STEVENS pointed out that the NRA's letter charges that this legislation is discriminatory in nature. Furthermore, the net loss in hunting opportunity concerns the NRA, which views HB 144 as an anti-gun bill.

MR. HAEG related his belief that the NRA letter the committee has isn't representative of the general membership of the NRA. Mr. Haeg said that he views HB 144 as Alaska looking out for its resource.

Number 1399

REPRESENTATIVE KAPSNER returned to the issue of wanton waste. She remarked that when one is shooting moose, it is difficult to determine whether the moose has a 50 inch rack. Representative Kapsner, a co-sponsor of HB 144, informed the committee that she is a member of the NRA and she believes it is important for Alaska to look after its own state resources. She said, "If we're looking at a Tier II hunt for in-state residents versus letting anybody from outside come in and shoot our moose, I think that's a scary thing."

CO-CHAIR MASEK related her belief that guided hunters are twice as successful than those that don't go out with a guide.

Number 1309

KELVIN GURNEY testified via teleconference. He noted his support of HB 144 as amended. He also noted the importance of

the buddy option. Mr. Gurney related a story in which he went hunting in Mulchatna. At the airport there, he saw several hunters with only moose racks. When asked where the meat was, the hunters all said that a bear got the meat. Although Mr. Gurney supported the bill, he felt that predators are the number one cause of the moose's decline and it is disappointing that can't be addressed.

Number 1217

JOE KLUTSCH, Master Guide, Katmai Guide Service, testified via teleconference. Mr. Klutsch, who has lived in the Bush for over 30 years, informed the committee that he has been a hunting and fishing photography guide. He said that this legislation will go a long way in making lawful hunting by nonresidents more enforceable. Furthermore, this legislation will reduce conflicts amongst users in the field and will result in a spatial distribution of effort. That is, there will not be high concentrations of hunters at river and lake corridors, which is where transporters often drop hunters with no regard for other users, the impact on the resource, or the quality of the experience. He remarked that guides have a stewardship incentive [in their designated areas].

MR. KLUTSCH related his belief that this legislation is more than a mere band aid. He said he feels that this legislation is a step in the right direction. However, he did believe that in conjunction with this legislation there will need to be some meaningful predator management, which he believes will come. He expressed the need for balance between predator and prey.

MR. KLUTSCH remarked that ADF&G will probably be in opposition to this legislation due to the attached fiscal note. He acknowledged that there will be an initial reduction in the number of nonresident tag fees if this legislation was adopted. Therefore, Mr. Klutsch suggested the need for tag fee increases in order to compensate for the overall decline in nonresident fees. He said that he has a number of formulas that could be utilized to accomplish that goal. In regard to Mr. Bishop's analogy to New Mexico, Mr. Klutsch disagreed and felt that there will be more than enough folks from the Lower 48 who will be willing to pay what it takes to have an honest hunt in Alaska. In conclusion, Mr. Klutsch expressed his hope that this bill will be moved forward.

GEORGE SIAVELIS testified via teleconference. He informed the committee that he has been a subsistence hunter for about 20

years as well as a small guide. Mr. Siavelis urged support of HB 144, although he believes that it is a band-aid bill for all the issues. This legislation will greatly reduce the wasting of moose meat, the killing of sub-legal moose by nonresidents, nonresident pressure on a dwindling resource, and field conflicts with subsistence users and thus provide a better subsistence opportunity. This legislation is a statewide solution versus the Board of Game's proposal 114, which has the potential of rearranging pressure demographics. Mr. Siavelis remarked that the Board of Game desperately needs some legislative assistance in alleviating the aforementioned problems. He mentioned his belief that no other state has an animal this size hunted in such unfamiliar terrain. He also mentioned that air transporters don't rely on the moose resources to the degree that guides do. Mr. Siavelis related his belief that all responsible guides and nonresident hunters should and will support an increase in the big game tag fee.

Number 0691

LES KRANK testified via teleconference. He announced his support of HB 144. This [legislation] is not being done for a special interest group but rather to help the resource. To his knowledge, the guiding industry is the only group that has come forward with legislation as a solution. He remarked that the problems with air transporters are just part of the problem. Mr. Krank echoed earlier comments by Mr. Haeg regarding the belief that guides are stewards of their area. Mr. Krank pointed out that although the number of hunters has declined over the past years, since the 50 inch minimum and/or three or four brow tine requirement, there are probably many unguided nonresidents who are shooting one to three moose before taking a legal moose. In regard to the tag fees increase, Mr. Krank was supportive of that as a means of off-setting some of the costs that ADF&G will incur. He turned to the letter from the NRA, of which he is a member, and related his belief that the member base had not been contacted.

MR. KRANK noted that he is a guide and stands to lose a fair amount of money to the unguided hunter. However, he is willing to give that up if it would help [the moose population]. He expressed the hope that in the future the predator problem could be addressed. However, if something isn't done today, then no one will have the moose population to pursue. He recalled that it takes about 30 years for a moose population to turn around whereas it takes about 3-4 years for a wolf population to turn around.

Number 0349

JIMMY HURLEY testified via teleconference and mentioned that his a member of the Nushagak Advisory Committee. Mr. Hurley noted his support of HB 144. He expressed the desire for moose to be around for a long time. He echoed earlier testimony regarding the competition between [nonresident hunters] and subsistence hunters. He also touched on the fact that many [nonresident hunters] are uneducated in preserving moose meat. Furthermore, those that are dropped off [at a river] face the reality that the rafts can only hold so much. Mr. Hurley said, "I think this is a real good bill."

TAPE 01-39, SIDE A

Number 0015

MATT ROBUS, Deputy Director, Division of Wildlife Conservation, Alaska Department of Fish & Game (ADF&G), announced that the department opposes HB 144. Firstly, the department doesn't believe that the bill will achieve its primary goals of reducing wanton waste and hunter conflict. Secondly, this legislation will be extremely costly to the department's wildlife management programs. Thirdly, this legislation could jeopardize the existing system of nonresident guide requirements for other species.

MR. ROBUS addressed the issue of wanton waste, which the department understands to be one of the primary reasons for HB 144. The legislation is based on the assumption that nonresident hunters are less knowledgeable about moose and about Alaska and thus are more likely to make a mistake and commit a violation. However, wanton waste isn't restricted to nonresident hunters because it occurs across all classes of hunters. As the bar chart illustrates, nonresident hunters are the smallest hunting group. He pointed out that the bar representing nonresident hunters is divided into the following groups: guided nonresident, transported nonresident, and solo nonresident. Mr. Robus said that even if those nonresidents are somewhat more likely to commit wanton waste violations, it is difficult to believe that attacking 6 percent of the total moose hunter population would significantly impact wanton waste violations statewide. In fact, the headquarters of the Fish & Wildlife Protection Division said that they were confident that it would be safe to say that the majority of wanton waste

violations in this state are not committed by nonresident hunters.

MR. ROBUS said, "The way to improve wanton waste in this state is through education and an adequate enforcement presence. Both of those are possible, both occur to some extent, and both are funding issues for our agency and for the troopers." However, requiring a guide to solve the problem basically deters 75 percent of the nonresident hunters because the price difference between a nonguided hunt and a guided hunt. The department believes that will be an obstacle for many people and thus will cause them not to go moose hunting.

MR. ROBUS turned to the issue of conflict between hunters and the competition for moose. Again, Mr. Robus pointed out that only 6 percent of the hunters are effected by HB 144. In the department's opinion, conflict is more likely to occur between local and nonlocal residents versus with nonresidents. He acknowledged that there is conflict in moose hunting areas. However, the 6 percent of nonguided nonresident hunters are only part of the problem.

Number 0332

MR. ROBUS said that a more appropriate way to address the aforementioned conflict and reduce wanton waste would be to re-create a Big Game Commercial Services Board that would have jurisdiction to manage guides as well as transporters. As mentioned earlier, this legislation will not heavily impact transporters because a high percentage of their clientele is Alaska residents. The legislature needs to help control the number of people that are being dropped off in these areas [where] the conflict is being created.

MR. ROBUS addressed the state's ability to require guides for nonresidents. Such a requirement is placed on the following three species: brown bear, mountain goat, and Dall sheep. That discrimination has been justified with the safety argument, which is that the animal is dangerous as is its terrain. The other argument is that a hunter cannot obtain much exposure to those three species other than in Alaska. However, moose has been successfully killed by nonresidents for years and thus the safety argument is difficult to make. Furthermore, several other states offer moose hunts and thus the exposure argument is difficult to make also. Therefore, requiring all nonresidents to have guides could make the entire system of requiring guides

for nonresident hunters for certain species more vulnerable to a legal challenge. The department cautions against that.

MR. ROBUS moved on to the fiscal impact of HB 144. He noted that the department is making several assumptions and although these assumptions may not be perfect, they are the best available. He informed the committee that when mountain goat hunting was changed such that nonresidents were required to have a guide, there was a 70 percent decrease in the number of goat hunters. If that figure is applied to the portion of nonresidents that are not guided and the \$485 per person fee is used, it amounts to just under \$1 million, which is the fiscal note. Mr. Robus pointed out that the small bar on the chart, the nonresident hunters, contributed about \$2 million in ADF&G revenue, which is used to run the program. That approximately \$2 million is more than all resident hunters contributed for all species. Therefore, he remarked that Alaskan hunters have a good deal, but [the department] depends on nonresident hunters to contribute a fair amount to the program and thus the department would take a tremendous hit if HB 144 passed. Additionally he predicted that Alaska would lose \$3,000 per hunter that chose not to come to Alaska; that prediction is based on an economic study done for the department in the mid 1990s.

MR. ROBUS concluded by saying that the department views HB 144 as a costly bill and probably one that won't be very effective in curing the problems. He acknowledged that there are problems and pointed out that the Board of Game has done what it could to control what it can in places like game management unit 19 where there is a drawing hunt that caps nonresident hunters. Mr. Robus reiterated the department's opinion that the best way to approach this would be to re-establish a Big Game Services Board.

Number 06368

CO-CHAIR MASEK inquired as to how federal matching funds impact the budget.

MR. ROBUS reminded the committee that the Division of Wildlife Conservation, the wildlife management arm of ADF&G, has very little general fund in its budget. Almost all of the division's operations are based on ADF&G fund expenditures. However, Pittman Robertson money is received from the federal government, but that money requires a 1:3 state match. He said, "Now, we're overmatched. So, I'm not saying that all of this million

dollars is going to lose us three million dollars of federal money, but a million dollars out of our operations -- this loss that we project would be about 10 percent of Fish & Game fund revenues on an annual basis. That's a substantial chunk."

CO-CHAIR MASEK asked if HB 144 will really address conservation because it seems that this will only impact about 6 percent of the hunters. Furthermore, hunters are 35-68 percent more successful with a guide.

MR. ROBUS remarked that the conservation aspect of this is basically under the control of the Board of Game. The board has shown that when a wildlife population reaches the point at which it can't satisfy the entire demand of hunters, the first thing to go is nonresident effort. Since "we" don't have a way to control the number of nonresident hunters entering an area, the Board of Game is faced with allowing as much hunting as the herds can support and after that [groups] must be eliminated. Therefore, the board has had to use its available tool of trimming nonresident hunters and sometimes cutting them entirely or even going to a Tier II hunt. Therefore, this bill will probably not make a difference in the way moose populations are faring.

Number 0855

CO-CHAIR MASEK inquired as to how one can be sure that this bill reduces wanton waste.

MR. ROBUS remarked that the assumption can be made that a knowledgeable guide can help a nonresident hunter figure out how to deal with a moose once it's down. However, he pointed out that if all of the guided hunters and nonguided hunters had guides, then that amounts to no more than 8 percent of the total hunter population. Unfortunately, there is still a certain amount of wanton waste that occurs with Alaskans. Mr. Robus reiterated that this legislation impacts a very small portion of the hunt. Even if this portion is impacted positively, the nonlocal Alaskans, the second largest bar on the chart, and local Alaskans are not being addressed.

MR. ROBUS, in further response to Co-Chair Masek, said that he didn't know the number of citations given for wanton waste violations in 1999 or 2000. He reminded everyone that the Division of Fish & Wildlife Protection is the enforcement arm of the state and that division isn't in ADF&G.

Number 0975

WAYNE REGELIN, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game, said that he didn't have that information. He noted that he had called the Division of Fish & Wildlife Protection earlier and it didn't have that information readily available. However, he was sure that information could be provided by the division. Mr. Regelin acknowledged that wanton waste is a problem, but noted that it is a small portion of the hunters in general. He added that Alaska probably has some of the most strict wanton waste laws in the nation, but more enforcement is needed.

Number 1067

REPRESENTATIVE FATE referred to page 2, line 2, which in part says, "An applicant for a nonresident hunt permit". He asked if there will be a special permit or will a nonresident just obtain an out-of-state license and a moose tag.

MR. ROBUS explained that in many cases nonresidents would have to apply for a drawing permit, while in other cases the nonresident would merely obtain a registration permit. He was not aware of a special nonresident permit.

REPRESENTATIVE FATE pointed out that on page 2, line 5, the language refers to a "permit hunt". Therefore, he was confused as to whether it's a permit hunt or whether the license and tag are part of the permits issued to the nonresident.

MR. REGELIN informed the committee that he didn't have the work draft until he arrived today.

REPRESENTATIVE FATE referred to page 2, line 6, which says "the applicant has contracted to guide the permit hunt." In the case of Section 4(3)(A), would that individual who complies with the requirements be able to have a verbal agreement or would a special form be required. Representative Fate felt that this makes a big difference and is a point that could be litigated.

REPRESENTATIVE LANCASTER pointed out that the House Resources Standing Committee penned the CS and thus he didn't know.

REPRESENTATIVE FATE remarked that he was bothered by some of the terminology.

Number 1286

CO-CHAIR SCALZI inquired as to why Mr. Robus felt that a Big Game Commercial Services Board would be a better solution.

MR. ROBUS noted that the Big Game Commercial Services Board is commonly referred to as the Guide Board. If there was a guide board that had jurisdiction over guide outfitters as well as transporters, then the state would have a mechanism to regulate the amount of nonresidents that are guided and transported as well as transported residents. Therefore, a much larger proportion of the moose hunters would be regulated in a way that didn't swamp out moose populations or local residents. In further response to Co-Chair Scalzi, Mr. Robus said that it would be up to the legislature to put together the board. In his opinion, the Board of Game has its hands full regulating the wildlife and thus he would hesitate to give this to them also.

Number 1364

REPRESENTATIVE McGUIRE referred to the buddy hunt and related her understanding that Mr. Robus had said that a different division enforces this.

MR. ROBUS agreed. In response to whether he could answer enforcement questions, Mr. Robus reiterated that he received the CS today and that his testimony wasn't originally written to speak to the CS. However, an initial reaction to the extra recordkeeping for the Alaskans serving as the guide buddy would require some new [procedures] that aren't currently in place.

REPRESENTATIVE McGUIRE said she understood then that the form providing advance notification of the buddy hunt would have to be developed as would procedures for creating the form, reading the form, and tracking it.

MR. ROBUS agreed.

REPRESENTATIVE McGUIRE related her belief that these are serious consequences [for violation of the provisions of HB 144]. She pointed out that Section 4(g)(3)(B) refers to the resident being allowed to accompany not more than three nonresidents. She felt that [the unclear language] would create enforcement problems because does it mean that the resident cannot take more than three residents at a time or at separate times. Furthermore, Section 4(g)(3)(C) says "does not receive compensation for accompanying the nonresident to hunt moose." She asked if a nonresident provided gas money, would that be considered

compensation. She then referred to Section 4(g)(2) and asked if an 18-year-old college student has his family come up to hunt, would that 18-year-old be sent to jail for a year.

MR. ROBUS said that although he can't answer that very well, he believes that those are important questions. With regard to chipping in for gas, Mr. Robus said he believes that reimbursement of expenses is different than compensation. He noted that he had spoken with Mr. Saxby, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, today on a similar question.

MR. ROBUS turned to the seriousness of the offense and related his belief that it is about the same now for wanton waste violations. Mr. Robus said, "It's probably one of the most serious wildlife crimes there is."

REPRESENTATIVE MCGUIRE agreed that wanton waste is a serious offense. However, she expressed concern with the vagueness of the language referring to the buddy hunt. Therefore, she believes that there may be some unanticipated consequences.

REPRESENTATIVE MCGUIRE recalled testimony from guides that said the amount of revenue the department may lose may be countered by increasing the cost of the tag. She inquired as to the [department's] view on that and the possibility of taxing the guides.

Number 1600

MR. REGELIN expressed the need to be cautious regarding how much more nonresidents are charged versus residents. There have been court cases in Colorado regarding the appropriateness of the differential. Currently, Alaska charges "way over" that differential partly because it is so inexpensive for a resident to hunt. Mr. Regelin pointed out the need to keep in mind that the state is in competition for hunters and Alaska is at the high end for what other states charge for big game tag fees for nonresident hunters. He also pointed out that most states are similar to Alaska in that 10 percent of the hunters pay for 90 percent of the bills. Mr. Regelin acknowledged that there are other ways in which the money could be obtained, such as a tax on the guide or a fee for each animal. Those mechanisms would have to be done by the legislature or the legislature would need to create the Big Game Commercial Services Board and provide them the authority to enact such regulations.

REPRESENTATIVE STEVENS inquired as to the intention of the Co-Chairs with HB 144.

Number 1714

CO-CHAIR MASEK appointed the following subcommittee: Representatives Green, McGuire, and Kerttula. [HB 144 was heard and held and a subcommittee was assigned.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 6:00 p.m.