

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 24, 2002

1:11 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Joe Green

**COMMITTEE CALENDAR**

HOUSE BILL NO. 232

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

- MOVED CSHB 232(RES) OUT OF COMMITTEE

3d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 178

"An Act relating to the powers and duties of the commissioner of fish and game, the Department of Fish and Game, and the Board of Game, to taking and use of certain game animals, and to consideration of the budget of the Department of Fish and Game by the legislature; and providing for an effective date."

- MOVED CS 3d SSHB 178(RES) OUT OF COMMITTEE

HOUSE BILL NO. 299

"An Act providing for the naming and renaming of Alaska geographic features."

- MOVED CSHB 299(RES) OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 232

SHORT TITLE: REMOTE RECREATIONAL CABIN SITE SALES

SPONSOR(S) : REPRESENTATIVE(S) FATE

Jrn-Date	Jrn-Page		Action
04/05/01	0860	(H)	READ THE FIRST TIME - REFERRALS
04/05/01	0860	(H)	RES, FIN
04/06/01	0890	(H)	COSPONSOR(S): WILSON
04/11/01		(H)	RES AT 1:00 PM CAPITOL 124
04/11/01		(H)	<Bill Postponed>
04/20/01		(H)	RES AT 1:00 PM CAPITOL 124
04/20/01		(H)	Scheduled But Not Heard
01/23/02		(H)	RES AT 1:00 PM CAPITOL 124
01/23/02		(H)	Scheduled But Not Heard
02/01/02		(H)	RES AT 1:00 PM CAPITOL 124
02/01/02		(H)	Heard & Held Subcommittee assigned
02/01/02		(H)	MINUTE(RES)
02/06/02	2170	(H)	COSPONSOR(S): FOSTER
03/04/02		(H)	RES AT 1:00 PM CAPITOL 124
03/04/02		(H)	Scheduled But Not Heard
03/15/02		(H)	RES AT 1:00 PM CAPITOL 124
03/15/02		(H)	<Bill Postponed to 3/18/02>
03/18/02		(H)	RES AT 1:00 PM CAPITOL 124
03/18/02		(H)	-- Meeting Canceled --
03/20/02		(H)	RES AT 1:00 PM CAPITOL 124
03/20/02		(H)	Heard & Held
03/20/02		(H)	MINUTE(RES)
04/17/02		(H)	RES AT 1:00 PM CAPITOL 124
04/17/02		(H)	Scheduled But Not Heard
04/22/02		(H)	RES AT 1:45 PM CAPITOL 124
04/22/02		(H)	Scheduled But Not Heard -- Time Change --
04/24/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 178

SHORT TITLE:MANAGMENT OF FISH AND GAME

SPONSOR(S) : REPRESENTATIVE(S) FATE

Jrn-Date	Jrn-Page		Action
03/13/01	0560	(H)	READ THE FIRST TIME - REFERRALS
03/13/01	0560	(H)	RES, FIN
03/16/01	0636	(H)	COSPONSOR(S): DYSON
04/05/01	0860	(H)	SPONSOR SUBSTITUTE INTRODUCED
04/05/01	0860	(H)	READ THE FIRST TIME - REFERRALS
04/05/01	0860	(H)	RES, FIN

01/18/02	2002	(H)	2D SPONSOR SUBSTITUTE INTRODUCED
01/18/02	2002	(H)	READ THE FIRST TIME - REFERRALS
01/18/02	2002	(H)	RES, FIN
03/25/02	2668	(H)	3D SPONSOR SUBSTITUTE INTRODUCED
03/25/02	2668	(H)	READ THE FIRST TIME - REFERRALS
03/25/02	2668	(H)	RES, FIN
04/01/02		(H)	RES AT 1:00 PM CAPITOL 124
04/01/02		(H)	Scheduled But Not Heard
04/08/02		(H)	RES AT 1:00 PM CAPITOL 124
04/08/02		(H)	Heard & Held
04/08/02		(H)	MINUTE(RES)
04/17/02		(H)	RES AT 1:00 PM CAPITOL 124
04/17/02		(H)	Scheduled But Not Heard
04/22/02		(H)	RES AT 1:45 PM CAPITOL 124
04/22/02		(H)	Scheduled But Not Heard -- Time Change --
04/24/02		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 299

SHORT TITLE:ALASKA PLACE NAMES

SPONSOR(S): REPRESENTATIVE(S)DYSON

Jrn-Date	Jrn-Page		Action
01/14/02	1953	(H)	PREFILE RELEASED 1/4/02
01/14/02	1953	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1953	(H)	CRA, RES
03/19/02		(H)	CRA AT 8:00 AM CAPITOL 124
03/19/02		(H)	Scheduled But Not Heard
03/26/02		(H)	CRA AT 8:00 AM CAPITOL 124
03/26/02		(H)	Moved CSHB 299(CRA) Out of Committee
03/26/02		(H)	MINUTE(CRA)
03/27/02	2699	(H)	CRA RPT CS(CRA) 5DP 1NR
03/27/02	2699	(H)	DP: KERTTULA, SCALZI, HALCRO, MEYER,
03/27/02	2699	(H)	MORGAN; NR: MURKOWSKI
03/27/02	2700	(H)	FN1: ZERO(H.CRA/DNR)
04/17/02		(H)	RES AT 1:00 PM CAPITOL 124
04/17/02		(H)	Heard & Held
			MINUTE(RES)
04/22/02		(H)	RES AT 1:45 PM CAPITOL 124
04/22/02		(H)	Scheduled But Not Heard --

04/24/02

(H)

Time Change --

RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

DICK MYLIUS, Resource Assessment & Development Manager  
Division of Mining, Land and Water  
Department of Natural Resources (DNR)  
550 West 7th Avenue, Suite 1050  
Anchorage, Alaska 99501-3579

POSITION STATEMENT: Explained DNR's concerns about HB 232,  
Version U, and answered questions.

DANA L. OLSON  
HC-30 Box 5438  
Wasilla, Alaska 99654

POSITION STATEMENT: Testified on HB 232.

RALPH SEEKINS  
Alaska Wildlife Conservation Association  
1625 Old Steese Highway  
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of the sponsor's  
efforts on HB 178, noting that his association is composed of  
Alaskan hunters and fishermen.

DICK BISHOP  
Alaska Outdoor Council (AOC)  
1555 Gus's Grind  
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in support of the purpose of  
HB 178 and management to increase wildlife abundance where it  
has been determined to be appropriate; recommended moving  
Version B from committee, but acknowledged that AOC's board  
hadn't seen it yet.

VIC VAN BALLEMBERGHE  
8941 Winchester Street  
Anchorage, Alaska 99507

POSITION STATEMENT: Testified on HB 178, Version B; strongly  
urged deletion of term "maximum sustained yield" because it has  
a different definition to biologists and managers; supported  
deletion of "historic high" from Section 8.

PAUL JOSLIN, Executive Director  
Alaska Wildlife Alliance  
P.O. Box 202022

Anchorage, Alaska 99520

POSITION STATEMENT: Cautioned against passage of HB 178, Version B, unless the legislature is prepared to spend a lot of money.

WAYNE REGELIN, Director  
Division of Wildlife Conservation  
Alaska Department of Fish and Game  
P.O. Box 25526  
Juneau, Alaska 99802-5526

POSITION STATEMENT: Testified in opposition to HB 178, Version B.

BOBBY FITHIAN, Executive Director  
Alaska Professional Hunters Association  
(No address provided)

POSITION STATEMENT: Testified that his organization, in general, supports HB 178, Version B.

#### **ACTION NARRATIVE**

TAPE 02-37, SIDE A  
Number 0001

CO-CHAIR BEVERLY MASEK called the House Resources Standing Committee meeting to order at 1:11 p.m. Representatives Masek, Scalzi, Fate, McGuire, Chenault, and Stevens were present at the call to order. Representatives Kerttula and Kapsner arrived as the meeting was in progress.

#### HB 232-REMOTE RECREATIONAL CABIN SITE SALES

CO-CHAIR MASEK announced the first order of business, HOUSE BILL NO. 232, "An Act permitting state residents to purchase remote recreational cabin sites."

Number 0133

REPRESENTATIVE MCGUIRE moved to adopt the proposed committee substitute (CS), version 22-LS0791\U, Kurtz, 4/4/02, as a work draft. There being no objection, Version U was before the committee.

Number 0170

REPRESENTATIVE FATE, sponsor of HB 232, informed fellow members that he had some amendments proposed by the Alaska Miners

Association, Incorporated, and that although he'd called Steve Borell [the association's executive director], Mr. Borell was out of town and unable to testify.

Number 0203

REPRESENTATIVE FATE moved to adopt Amendment 1, which read [original punctuation provided]:

Page 3, line 10, following "section":

Insert "from lands that were not selected by the state for mineral values and lands having a low mineral potential based on a geophysical survey complete not more than 15 years before the offering,"

Page 3, Line 22, following "use":

Insert ", other than merely transiting over the parcel by any means,"

Page 3, Line 22-24:

Delete "or at least five years of use including two years of active mining under a mining claim, by the person immediately preceding the nomination,"

Insert "or that person has held the area under a mining claim, as shown through not less than 5 consecutive years of production royalty reports to the state, on claims that are contiguous with the parcel,"

REPRESENTATIVE FATE informed the chair that where it says "with the parcel" on the last line of the amendment, it should say "are contiguous with or ... part of the parcel". He said it was a mistake "on our part" when formulating this.

REPRESENTATIVE KAPSNER requested an at-ease until all members had copies of Version U.

CO-CHAIR MASEK declined and announced that discussion of the amendment would continue.

Number 0424

REPRESENTATIVE FATE explained Amendment 1:

These were the suggestions, and I concur with the Alaska Miners Association. It simply ensures that mining or mineralized ground that has been identified

by the state will not be part of the nomination for this entry. And there's some pretty good reason for that, because ... even where people understood that it was mineral ground in the past and they understood that they were subject to under -- or underground location of the assets under the mining claims, they still, in future years, litigate it by saying, "Well, the noise - they're disturbing me," and all these kind of things. So rather than to get into this fight that has happened before - even though the people have settled on that ground, even though the people had remote-parcel sites, why, then, they went into litigation and they cost everybody a lot of money; so, rather than to do that, we are just saying that any ground that's identified by the state as mineral ground will not be open to this entry. So, ... that's basically what one of those amendments says.

Number 0569

The other one was concerning a person who snowshoes or skis a piece of property and then says, "Gee, I've been doing that for three or four years." Well, does that constitute, really, the use of a property for three consecutive years? It really doesn't. ... He just transited across this property in pursuing the activities that he wanted to pursue. So that was put in there so that a person truly had to use that, on a sustained basis, for whatever - for berry picking, for hunting, as a campsite, or for truly a stationary location - during the three years prior to the nomination.

Number 0615

And under the "other mining", which I think was a good idea, the mining association really came up with the idea that the royalty reports should be the criteria for whether or not ... the people on that mining ground truly staked that ground for mining purposes, not just simply to squat on that ground under the mining laws to be able to take advantage of this. And so that was a good rule, and whether you've really mined any metal or not, ... you still have had the activity, and you have to file that report, even though the report may say "zero," that there is no royalty.

REPRESENTATIVE FATE thanked the Alaska Miners Association for helping to straighten out some of these issues.

CO-CHAIR MASEK indicated copies of the proposed CS had been distributed. [Comments from her staff indicated copies of the amendment were still being made.]

Number 0734

REPRESENTATIVE CHENAULT asked about criteria under which the state can determine what is "mineral land," or whether, because of Amendment 1, the department could just decide everything's mineral land.

REPRESENTATIVE FATE affirmed that there are criteria and added his belief that "this alludes to the geomagnetic surveys that they're doing across the state or other areas that have already been withdrawn as known ... geologically prone areas or mineralized-prone areas." He said these are identified areas, and that [the department] can't just go willy-nilly into an area and announce that it is mineralized.

CO-CHAIR MASEK asked whether Representative Fate was seeking unanimous consent with Amendment 1.

REPRESENTATIVE FATE responded in the affirmative.

Number 0850

REPRESENTATIVE KERTTULA objected for discussion purposes. Inquiring about the second two parts of the amendment, she requested confirmation that "these are the people who can nominate to get the recreational parcel."

REPRESENTATIVE FATE answered, "It's not exclusive to them, but it includes them, yes." He added:

To make it clear, this situation came up because there were many miners who really are for this bill, who have had mines for many years. They spent years on that property, and they like to go back to it, whether it's still an active mine or even whether it's mined out. That's part of their spirit, really. And so they said, "We still have equipment out there. We would like some private land that is not still state land where we can either keep our cabin and have ...

maybe a shed so that we don't have to move this equipment to keep it out of the weather." And they were really for this because it allows these people to have a small, two-and-a-half-acre parcel of land very close or on, as a matter of fact, those claims that they have.

And throughout this, where it's shown and proven that, ... in the event of mining claims, ... they have been on these mining claims for five years, as proven by this amendment, then they can nominate. Then ... what happens is that once they nominate ... this land, the state can also nominate the surrounding land if it so chooses. If it's shown to be mineralized land - that we now have in ... this bill by amendment [if Amendment 1 is adopted] - then they would not open this to nomination but would still retain the right [of] that person to nominate ... his own parcel. Now, that's specific to this type of nomination.

Another type of nomination is where the state nominates a large parcel of land for entry into a remote cabin site, and where the individual either has the right, through the commissioner, to appraise and have the survey done by himself or herself, and pay for that by themselves, to get clear title to that land; then that's another type of nomination. And there are restrictions in that, as the bill says, a half-a-mile-apart separation - if you're on a river, it's two miles of meander; if you're on a lake, I think it's now, what, 15 acres per cabin. ... It's truly a "remote" bill, so that it allows a person to get in to that country and still enjoy the remoteness of it. It also says that it can't be within a half a mile, for example, of ... a land claim or another parcel that is already occupied or designated ... as a non-open area for this kind of ... entry.

Number 1089

REPRESENTATIVE KERTTULA asked what happens with the old mining claims: whether there is another way to get final ownership from the state after having [a claim] for a period of years, or if it is just the "mineral entry" that a person has a right to.

REPRESENTATIVE FATE replied that there are federal patent laws, although they've changed over the years. He added, "On the

state end of it, ... because of our constitution and the way the royalties are described from minerals to the benefit of all the people, constitutionally, I don't believe that the patent laws ... on state mining claims apply anymore." He acknowledged he might be incorrect about that.

REPRESENTATIVE KERTTULA remarked, "I like our miners, so if anybody gets a benefit, I'd like to see them be able to get it." She requested clarification about what miners could receive now, however, and whether this might conflict with either that or what the federal law requires.

Number 1278

DICK MYLIUS, Resource Assessment & Development Manager; Division of Mining, Land and Water; Department of Natural Resources (DNR), responded via teleconference, affirming Representative Fate's understanding that under state mining law, which is tied to both the constitution and the Alaska Statehood Act, one cannot get title to a mining claim [on state land], but can only get the mineral rights. That Act and the constitution basically say that if the state alienates title to the minerals - in other words, gives it to a private entity - the land technically can revert back to the federal government. He added:

As a result of that, under state mining law you can never get the right to ... fee-title ownership, which you could under the old federal law, although the federal government's made it so difficult that even under the federal law you can pretty much ... never get full title - fee title - to the land through a mining claim anymore.

Number 1329

REPRESENTATIVE KERTTULA asked whether this provision that grants title would fly in the face of the [state] constitution.

MR. MYLIUS answered, "That is a concern of ours, that ... it essentially allows the use of mining claims in a way that is not envisioned under the constitution."

REPRESENTATIVE FATE responded:

That's specific to mining claims, and that's specific to the use of the resources. But it also has provisions in the constitution for the settlement of

the land ..., and this actually does adhere to that constitutional edict. So, ... in my view and in the legal view - ... we've been over this many times - there was no conflict in that.

Number 1482

REPRESENTATIVE KERTTULA announced her objection to Amendment 1. She explained:

As I read the amendment, it would grant title to mining lands; otherwise, you wouldn't have the production royalty report for the five years. So I think we're creating a problem there. ... What I think I'm reading is that you'd want someone who had an old mining claim, ... who kept it around, but if there's no more mining going on it, maybe it could happen. But if there's five consecutive years of mining reports, it seems to me ...

REPRESENTATIVE FATE interjected:

That's really not true. It could be an active mining claim. But you have to remember that once that fee-simple [title is] granted, it's no longer a mining claim. You can get fee-simple ground through this and through other land-disposal processes by the state already. And a mining claim is not ... a claim in perpetuity. ... You have to do certain work; you have obligations to do assessment work. And so ... if you really want to get technical about this, a person could let ... that portion or a portion of the claim lapse ... and it goes back to the state and you'll immediately [stake] it ... under this law, and it becomes a fee-simple land again. So the mining claim itself is correct, that the claim itself does not revert ... in private interest as a mining claim. But this isn't about mining claims. This is about private ground and how we can get private ground into the hands of the people in the state of Alaska.

Number 1605

REPRESENTATIVE KERTTULA asked, "So you're saying ... that the claim is separate from the land, that the state holds the mineral rights but that ... we could give the land in fee simple?"

REPRESENTATIVE FATE replied:

Well, you haven't stated it quite the way I stated it, but when you stake a claim, you only stake a claim to the subsurface minerals, not to the surface. And so when you're talking about subsurface rights, you can't own those subsurface rights; you have to lease those subsurface rights. That's not necessarily so on the surface. Actually, other people can use that surface.

I'm saying that even ... under the most bizarre circumstance, if worse came to worst, you could ... let the lease lapse - or the claim lapse - and restake it, and it would still come under ... this law, if you had to do that. I don't believe it does, according to some of the "legal" that we've already had, because ... when you're mining, you're talking strictly about subsurface rights, even though you may have the use of the surface ... in conducting the mining operation. But I think we're down a rabbit track right here, going into the mining operation rather than what we're trying to do ... in getting people ... fee-simple land in the state of Alaska.

Number 1688

REPRESENTATIVE KERTTULA maintained her objection to Amendment 1, saying it wasn't clear whether it could be allowed.

A roll call vote was taken. Representatives McGuire, Stevens, Kapsner, Fate, Chenault, Masek, and Scalzi voted in favor of Amendment 1. Representative Kerttula voted against it. [Representative Green was absent.] Therefore, Amendment 1 was adopted by a vote of 7-1.

Number 1760

REPRESENTATIVE FATE, in response to Mr. Mylius, who didn't have a copy of Amendment 1, reiterated what it does.

Number 1994

MR. MYLIUS offered testimony on Version U. Noting that he oversees the state's land-disposal program, he first thanked Representative Fate and his staff for working with DNR on this bill and sharing ideas. He expressed DNR's overall concern,

however, that the bill changes DNR's existing remote recreational cabin program. In effect since 1997, that program was first funded last year; it is the first such program in more than ten years, and it seems to work, although some bugs may need to be ironed out. Last year, he told members, DNR offered 295 parcels in ten different areas under the program and received about 700 applications; it plans to offer another 250 stakings this summer. In future years, he indicated, DNR hopes to offer "new and better areas" instead of just those offered previously under the homesteading program; there hadn't been time to identify new areas, which need to go through a best-interest finding, public notice, and land-title work, for example.

MR. MYLIUS reported that the current program about breaks even: it costs about \$400,000 a year to administer and is expected to yield about \$400,000 in revenue in FY 05. He pointed out that, basically, stake-it-yourself land disposals aren't big moneymakers because the costs to administer them are usually fairly high and the land available under these programs generally is more remote and of lower value. These programs aren't designed to make money, but are designed to get primarily recreational lands into private ownership.

Number 2104

MR. MYLIUS explained DNR's concerns about changes to the program under Version U:

The fundamental changes are: that the bill establishes a very strict timeframe for completing surveys and appraisals, ... in one year; it allows DNR to negotiate private, noncompetitive sales, rather than ... just public sales, which is all we currently ... do; the bill requires that we ... try to offer 300 parcels a year, and, again, the bill is subject to appropriations from the legislature, is in there, but we have a concern about having ... a quota in there; it allows members of the public to nominate a specific site, and if they can demonstrate the past recreational or mining use of that, we would be required to offer that site to the individual; and the final major change is that it restricts parcels to 2.5 acres - the current program allows parcels of up to 20 acres to be offered.

Our specific concerns related to those things are that, first, the program will cause difficulty in meeting municipal platting requirements. The current program we have was designed so that municipalities could exercise some control over how land disposals occur. Our biggest concern is the issue of lot sizes, that the bill specifies a minimum lot size of 2.5 acres. The minimum lot size in most boroughs that exercise planning authority is about 10 acres for remote parcels of land, and that's based on what's generally been considered the minimum size for [an] onsite sewage disposal program. So that'll either mean that in municipalities such as the [Matanuska-Susitna] Borough, Fairbanks North Star Borough, or Kodiak [Island] Borough, we'd ... have to go against their municipal platting rules or not offer the program in those areas.

Number 2170

MR. MYLIUS continued addressing DNR's concerns:

Secondly, the bill establishes [a] preference right for individuals who use the land for recreational or mining purpose. We've had a lot of discussion with Representative Fate on this issue, but DNR has a concern with any sort of preference right, because our existing sale programs almost entirely are offered to all Alaskans ... [as] an equal opportunity, basically, ... through an auction or lottery where every Alaskan has an equal chance to ... get the land. The provision in this bill that allows people who can demonstrate use, whether it's for recreational or mining-related purposes, is contrary to that, by giving those folks a preference right. And we have a concern about that.

Regarding recreational use, we are concerned that ... the program would encourage people to build cabins and other structures in trespass, because they would build cabins to help demonstrate that they use the land and then they would apply to purchase the land. So we think it's subject to abuse.

We have similar concerns under the mining law that ... the provision that allows people to use a mining claim to establish a right will result in people's staking

mining claims with the idea of eventually getting ownership for recreational cabins. And we don't believe that's the intent of the mining law.

Our other concern related to mining - and this is partly resolved by the amendment - is that our experience has shown that you don't really want to have private recreational parcels scattered amidst mining areas, because people that get those cabins eventually build houses there and don't want to see mining. We've had that problem with the True North project in Fairbanks, ... where people that we sold land to 20 years ago have become the leading opponents to the mining project in their backyards.

Number 2275

MR. MYLIUS continued addressing concerns:

A third concern that DNR has about the bill is we feel that it should not contain a requirement to propose 300 parcels a year. Such quotas set in legislation, even when it specifies that it's subject to appropriations, build up an expectation with the public that DNR will offer that amount regardless of whether or not sufficient funding is provided.

And fourth, we feel that the program will be expensive and will lose money. Our concerns about this ... stem from two things. One is, the preference-right provision will result in people applying for isolated, scattered parcels that we'd have to process or could end up processing individually, which is inefficient. The current program allows us to group areas or group parcels [and] offer a bunch - open one area, ... and we go through one title check, one best-interest finding, and so on, that covers a number of parcels. We do one survey, one appraisal that covers a number of parcels. And by having individuals apply and kind of dictate where the program goes could end up being very ... inefficient. And the other concern is, the minimum size, again, of 2.5 acres results in fairly small parcels and less revenue to the state.

MR. MYLIUS again thanked Representative Fate for working with DNR on the bill.

Number 2349

REPRESENTATIVE FATE contended that these are first-come, first served sales and that neither the constitution nor the statutes necessarily call for competitive bids. He said the present disposal program is popular, and there are always too many people who qualify for desired plots; thus there is a lottery that people have to be lucky enough to win in order to get a parcel from the state. He referred to two letters in packets with regard to doing one's own survey and appraisal, which the bill would allow; he said it would take 80 people doing that in order [for this program] to break even, and it would make money if there were 150 applicants.

REPRESENTATIVE FATE questioned the fiscal note. He referred to the projection in DNR's fiscal-note analysis of the need for "2 staff for Public Information Offices (Fairbanks and Anchorage), 2 staff to review/approve applications, 1 appraiser and 1 survey position to review and approve appraisals/surveys, 1 staff to issue deeds (and conduct related title search), 1 FT staff to keep land status maps current". He offered his belief that it would take only two persons spending 1 to 1.5 hours each to plat the new sites, instead of the seven personnel he said were listed. Furthermore, he said, a revolving fund in the land-disposal program can be used for the surveying and appraisal, "if required ... by people who don't want to pay for this."

REPRESENTATIVE FATE also said the higher down payment, 20 percent instead of the current 5 percent, will increase the front-end money required to do these things, "if an individual doesn't choose to do them himself, and most will." He further suggested that the best-interest finding is retained in order to ameliorate any problem with a sale to an individual "after the first-come, first-served concept came into play." Addressing the concept of preferences, he pointed out that laws and even the constitution have preferences, such as those for veterans.

Number 2541

DANA L. OLSON testified via teleconference, noting that she had provided written testimony previously. She read from the state constitution, Article VIII, Natural Resources [Section 1], and told members that she doesn't believe a piecemeal best-interest finding on each parcel complies with that, "especially ... this committee holding that I would have to have a revision of the Susitna area plan." She said:

I have been very patient over the years, but I ... really think that if you're going to act quasi-judicial, then the committee should have a factual finding or a factual basis for making a decision concerning disposal in the Susitna area. A lot of things have changed. New laws come into place. The classification by itself becomes meaningless without consideration of the other laws and constitutional requirements.

So I am generally in favor of recreational cabin sites. However, ... I would encourage the committee to ... put of record what the factual basis of holding one disposal requirement for this extensive review, and holding another one to bare-bones minimum. ... There must be some basis, or at least provide a means [by which] ... a person might question the committee's expertise.

CO-CHAIR MASEK asked whether anyone else wished to testify; there was no response. She closed public testimony.

Number 2699

REPRESENTATIVE FATE wrapped up by saying DNR and he had "agreed to disagree" on this. He emphasized the number of people he has heard from who want to get small pieces of land into the hands of private citizens. He also said the 2.5-acre size fits well "within the platting context of the Department of Natural Resources, in spite of what we've heard, because we've had testimony to two cartographers in that regard." He said he has nothing against the current disposal plan and that he sees this as a reinforcement tool to be used by DNR, because the commissioner would have the ability to approve or deny applications. He concluded by saying the bill would ensure that people who qualify could choose "the parcel of their desire," provided that they meet the criteria, "and then they have a piece ... of Alaska that they've been trying to get for years and years."

Number 2772

REPRESENTATIVE McGUIRE moved to report CSHB 232, version 22-LS0791\U, Kurtz, 4/4/02 [as amended], out of committee with individual recommendations and the accompanying fiscal notes.

Number 2781

REPRESENTATIVE KAPSNER objected. She said Bob Loeffler [of DNR] had raised some excellent points, the bill hadn't been fine-tuned, and she didn't believe it should move out of committee.

REPRESENTATIVE KERTTULA explained why she couldn't support the legislation, although she believed Representative Fate had his finger on a problem and she didn't disagree with trying to get more land to people. She pointed out that fundamental problems raised in the last hearing still exist; for example, someone who can fly to a piece of land - and therefore notice it, file for it, and receive it - could receive [title] over perhaps indigenous people or people who are less wealthy. She also expressed concern that the amendment steps over the line constitutionally with the mining claims.

Number 2847

A roll call vote was taken. Representatives Stevens, Fate, Chenault, McGuire, and Masek voted to report CSHB 232 [Version U, as amended] from committee. Representatives Kapsner and Kerttula voted against. [Representatives Green and Scalzi were absent.] Therefore, CSHB 232(RES) was moved out of the House Resources Standing Committee by a vote of 5-2.

HB 178-MANAGEMENT OF FISH AND GAME

Number 2908

CO-CHAIR MASEK announced the next order of business, 3d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 178, "An Act relating to the powers and duties of the commissioner of fish and game, the Department of Fish and Game, and the Board of Game, to taking and use of certain game animals, and to consideration of the budget of the Department of Fish and Game by the legislature; and providing for an effective date."

CO-CHAIR MASEK called an at-ease at 1:57 p.m. She called the meeting back to order at 1:58 p.m.

Number 2934

REPRESENTATIVE FATE, sponsor, referred to Version B, a new proposed committee substitute (CS). Addressing why he believes the bill is needed, he said the people in the state are taking 3 to 5 percent of the game population "in a state where the ability to take more is much higher."

TAPE 02-37, SIDE B  
Number 2980

REPRESENTATIVE FATE asserted that [deterioration in game populations] either hasn't been dealt with in a timely fashion or has been dealt with "within a storm of controversy." Therefore, this bill attempts not only to clarify the duties of the commissioner and the Board of Game, but also to establish "the sideboards as to what the population could be to create a higher yield, given the habitat and the biology of the species in question." He mentioned a perception among people who live in the wilderness or in rural Alaska - or who live in urban Alaska but love to hunt and fish - that the Alaska Department of Fish and Game (ADF&G) "manages more passively than actively." He told members:

Whether or not ... you ascribe to that particular perception really isn't the point. This is to alleviate any of those perceptions by making it clear that there now is statute and policy which has the sideboards that will try to produce the maximum amount of game that we should have for both subsistence hunting and for sports hunting, or just for viewing, if that's what a person wants to do.

Number 2876

REPRESENTATIVE CHENAULT moved to adopt version 22-LS0695\B, Utermohle, 4/16/02, as a work draft. There being no objection, Version B was before the committee.

Number 2847

RALPH SEEKINS, Alaska Wildlife Conservation Association, testified via teleconference, stating support for Representative Fate's efforts on the bill. He informed the committee that his association is a group made up of hunters and fishermen who are Alaskan residents.

Number 2809

DICK BISHOP, Alaska Outdoor Council (AOC), testified via teleconference, calling the AOC "a growing statewide organization of clubs and individuals advocating sound, scientific state management of fish, wildlife, and habitats, and of fair opportunities for all Alaskans to use these great

resources." He advised the committee that AOC supports the concept of management to increase the abundance of wildlife in areas where harvest by people is very important, and that AOC has supported statutory provisions "previously enacted to facilitate application of this management concept." He said AOC supports the purpose of HB 178, "which refines statutory language relating to management for abundance of fish and wildlife." He offered his belief that the main thrust of HB 178 relates to only those populations that the Board of Game has decided warrant intensive management.

MR. BISHOP indicated AOC had worked with Representative Fate on HB 178 since its inception, including the current version [Version B], which he recommended moving from committee. He pointed out, however, that AOC's board hadn't yet reviewed the current draft, although AOC "supports the concept of active or intensive management of fish and game where and when it's appropriate, as determined by the Board of Game or the Board of Fisheries, to increase harvest opportunities for people." He suggested this concept is of increasing importance "due to the lack of management on federal lands, which includes 60 percent of the state; the creeping constriction of harvest opportunities due to the federal subsistence law; and, in some cases, a declining big-game ... population base; and also to the avoidance of active management by the current state administration." He again recommended moving the bill.

Number 2688

CO-CHAIR SCALZI apologized for being late and asked Mr. Bishop whether he is in support of the "maximum sustained yield concept for fish and wildlife resources."

MR. BISHOP replied:

Yes, ... we're in support of the maximum sustained yield in those areas and populations where that's been determined to be the appropriate measure, and certainly with the other provisions of the constitution that [specify] maximum benefits of the people, managing on the sustained yield principle.

CO-CHAIR SCALZI asked whether that also applies to "mixed-stock fisheries management."

MR. BISHOP replied, "In general, yes."

Number 2628

VIC VAN BALLEMBERGHE testified via teleconference, noting that he is a wildlife biologist with about 28 years' experience in Alaska. He first elaborated on his previous testimony about problems associated with managing for maximum sustained yield, a concept that persists in the current work draft. Cautioning that such a management approach leaves virtually no room for error, he explained:

What maximum sustained yield [MSY] management means and requires is that you have an accurate population census for each of the populations that you're trying to manage for MSY; furthermore, that you have an accurate estimate of the harvest from that population; and, finally, that you have an accurate estimate of the carrying capacity of the environment to support that population.

Number 2558

Let me just give you an example ... of the problems involved with MSY management for moose. I have before me the latest moose-population summary prepared by the Department of Fish and Game, dated January 2002. Now, this summary contains information on 65 different game management units and subunits across the state that contain moose and on which the game board promulgates regulations. In order to manage each of those 65 different units and subunits for MSY would require an accurate population estimate. ...

Game management Unit 13, which is located in the Glennallen area, contains about 20,000 square miles of moose habitat, and it's one of the most important moose-population hunting areas in the state, and has been for decades. There are five different subunits in Unit 13: A, B, C, D, and E. And on this summary sheet, I note that for four of those five subunits there is no moose population estimate at present. The department does not have a moose population estimate for four of those five subunits, which contain about 88 percent of the moose in that entire unit.

And so, for one of the most intensively managed moose populations in the state - game management Unit 13 - it would not be possible at this time to manage that

area for maximum sustained yield because you simply do not have a population estimate; you do not have an estimate of carrying capacity; and you could not do what this law mandates the commissioner do, which is to manage for MSY.

Largely, the same issues would apply to the other species of interest here: caribou and deer and sheep populations - all the important wildlife populations in the state. And so ... I strongly urge the committee to consider amending the bill to delete the term "maximum sustained yield" and to perhaps replace it with "maximum benefit". During the ... last hearing you heard some discussion of the term "maximum benefit", and there was even some agreement, I think, that, in a lay sense, maximum benefit and maximum sustained yield are not that far apart.

MR. VAN BALLEMBERGHE commended the sponsor and committee for deleting ["historic high"] population levels from Section 8 of the work draft following previous testimony about the enormous problems associated with that concept.

REPRESENTATIVE FATE, after confirming that Mr. Van Ballenberghe had read the definition of "maximum sustained yield" in [Version B], asked:

Wouldn't you agree with that? Because you described that basically in your description of Unit 13; the maximum ... sustained yield in Unit 13, for example, would be far different than in Unit 20. It describes a carrying capacity ... of that, whatever that carrying capacity is, and for harvest, whatever that harvest may be. So it's not trying to dictate a standard. When you say "maximum sustained yield", you're talking, certainly, different habitats, different bag limits imposed by the Department of Fish and Game, different predator control procedures to achieve that maximum sustained yield. And to get to that maximum sustained yield is entirely up to the management of the Department of Fish and Game, based on the best scientific evidence. And so, I don't think we're that far apart ... on what we're trying to get at here, as far as the maximum sustained yield. Wouldn't you kind of agree on that?

Number 2317

MR. VAN BALLEMBERGHE replied:

I would disagree on that. And part of the problem here is a problem of definitions. And the definition contained in Section 10 of the bill is not something that a biologist ... or a manager would recognize. It's a generic definition of MSY. And MSY has a very precise definition to biologists and managers. And as I read the direction to the commissioner in Section 1(B), relating to the fact that he shall manage for maximum sustained yield of resources, the problem would come ... in the arguments before the game board over what that means: does it mean some generic term that's more close to the term "maximum benefit" as stated in the constitution, or does it ... mean the biological definition, which is what most biologists and managers are going to assume it means when it comes time to make these decisions? And because of those problems, the differences of definitions, again, I strongly urge ... the committee to amend by striking the term "maximum sustained yield" and inserting something closer to what the real intent is, namely, maximum benefit ... to users.

Number 2202

CO-CHAIR SCALZI asked Mr. Van Ballenberghe whether he had the biological definition of "maximum sustained yield" that he'd referenced.

MR. VAN BALLEMBERGHE replied:

Yes, I do. And I tried to give it last time, but ... it gets a little technical, and I think people kind of hear it and ... it's a little bit difficult to grasp. But what it involves is this: for any population of wildlife - or fish, for that matter - there is something called a carrying-capacity density. And carrying capacity is that point at which recruitment into the population balances mortality, and there is no room for human harvest or predator harvest, for that matter. So at carrying capacity there is no room for harvest and the population is balancing its mortality with what few young members they recruit.

Okay, maximum sustained yield for moose and caribou and ... sheep and the larger ungulate game populations occurs at a density about one-half ... of that carrying capacity. And ... maximum sustained yield occurs at the point at which you are cropping the maximum number of animals from that population, considering the recruitment into that population and ... the reproductive rate that occurs that.

Number 2112

PAUL JOSLIN, Executive Director, Alaska Wildlife Alliance, testified via teleconference, noting that he is a wildlife biologist by training, with many years of fieldwork on wolves, bears, and other large carnivores, mostly with government agencies and universities. He told members:

At the last hearing, you heard from several experts, both within the Alaska Department of Fish and Game and outside, that were critical of HB 178. The new language that we have continues to bear some of these difficulties. One of them deals with Section 1(B), where it states, and I quote, "to achieve an abundance of fish and wildlife resources sufficient to provide the maximum sustained yield of those resources". As it's currently defined, that applies to all species; so that hasn't changed.

The next difficulty that continues with the new language is the focus that you just heard about on maximum sustained yield, which troubles many biologists, as it creates expectations that are both costly and risky. In order to reach the limits that natural systems ... can produce, biologists need to have a lot of solid information at hand concerning all of the major factors that drive the system. Biologists are well aware that the closer one gets to achieve the maximum possible in output, the riskier the likelihood of making an error that could have devastating results.

And the only way to avoid this happening is to make sure the information used in making the calculations is accurate. This can be done, but it costs a lot of money and should not ... be pushed for at this time, when the main focus by the legislature is ... trying to close the fiscal gap. I don't see that you're

about to spend a lot of money on the Alaska Department of Fish and Game to get the levels of accuracy that you're going to need to do the job correctly. Normally, the biologists have to be content with lesser funds. And that's okay as long as you accept the idea that you're going to be working [with] cruder levels of accuracy, and so long as the expectations in the way of output are not set too high, because nature's pretty forgiving, and so it corrects a lot of the mistakes that are made.

Number 1979

MR. JOSLIN cited the recent McGrath situation as "an experiment, in a sense, of the very type that you're indicating." People were concerned about increasing the moose population there; there was a belief that the population was in decline, that it was because of wolves, and that the Board of Game should put into place a control program. However, the administration chose instead to say, "Let's make sure we got our facts straight," Mr. Joslin reported; a lot of money was spent to determine that, in fact, "the moose population was not in decline, and to discover, gee, wolves weren't to blame, [and that] if you had to pick a predator, [it'd be] brown bears in one area and wolves in another, plus there were several other factors." He again cautioned that if the desire is to manage wildlife to the levels that this bill would force, the legislature should be prepared to spend a lot of money. In the alternative, legislators shouldn't pass the bill.

Number 1872

REPRESENTATIVE FATE offered a different understanding of the alleged moose population decline in McGrath and said that clearly there was a problem regarding the number of moose that people could hunt.

Number 1802

WAYNE REGELIN, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game, came forward to testify, noting that Matt Robus and Gordy Williams had testified previously, while he himself was out of town, about the many reasons ADF&G opposes the bill. He told members:

I'd like to talk a little bit more on the general situation. I reviewed the changes in the committee

substitute that became available last Wednesday, and they do make some improvements in the bill. But I still think that ... the bill is based on a flawed concept, and if it was passed, it would result in a bad law that would hinder the ability of the Board of Game and the Department of Fish and Game to effectively manage the state's wildlife.

In my opinion, the primary purpose of the bill is to micromanage the Board of Game and the Department of Fish and Game in order to mandate intensive management of moose and caribou populations. The bill makes numerous changes and additions to several statutes, but its end result is to try to require predator control. It would require ... that the department place the highest priority, for manpower and funding, for implementing ... intensive-management programs.

I think you have to place this bill in context with the current intensive-management law. And when you do that, the effect is that wolf or bear control would be mandated over large parts of Alaska - the majority of Alaska - on a continuous basis. The public simply isn't going to allow us to manage our wildlife that way. Alaskans have voted twice in the last five years to prohibit the public from shooting wolves the same day they've flown aircraft. And these ballot initiatives [have] also provided very stringent guidelines that must be met before the department [can] conduct wolf-control programs.

The current intensive-management statutes [require] the board to authorize intensive-management actions, primarily wolf control or bear reductions, if the board finds it necessary to reduce the seasons or bag limit on a moose or caribou population. In some cases, they are required to do this even though ... predators aren't ... the cause for the decline. But you can't reduce seasons and bag limits for moose and caribou without triggering the intensive-management law. And so the only viable action that the board can take to meet the law or the statute is to authorize intensive management.

Number 1640

MR. REGELIN continued:

Now, this bill before you goes a step farther and tries to force the administration to undertake predator-control programs everywhere that the board has authorized them or has been forced to authority them. In my opinion, this just can't work. I don't think that the legislature is going to succeed in forcing any administration - I don't care who's in charge - to implement a program that has little public support and might not be successful.

Now, having said that, I'm still confident that predators can be managed in limited areas where we have the severe imbalance between moose and caribou and wolves or bears. But we already have adequate laws to make this happen. We just don't need more laws that make it more difficult.

I realize that many hunters are frustrated and mad because high levels of wolf and bear predation have limited their opportunities to harvest moose and caribou in many areas of Alaska. Most people, including me, would like to return to the abundance of wildlife we had in the late 1960s and 1970s. But you have to remember that those high populations were attained through intensive management of predators or control of predators [that] included poisoning, bounties, and aerial gunning. And ... I can guarantee you that the public will no longer allow their wildlife to be managed that way. I'm convinced, based on the 14 years I've served as director and deputy director of this agency, that widespread, continuous wolf control is simply not possible.

Number 1526

MR. REGELIN continued:

But I also know how important predation can be, and how it limits people's opportunities to harvest in many areas. I haven't given up on trying to manage predators, and I know we need to regulate predator populations, and, in my opinion, we should do it the same way we regulate moose and caribou populations. But the problem is that hunting or trapping of wolves and bears in many areas just doesn't take enough animals to keep them in balance with their prey.

Now, reduction of a wolf population or a black bear population, beyond that provided by legal hunting or trapping, very quickly becomes highly controversial; I've lived through it a few times. The issue is very emotional, and it provides the anti-hunting groups the opportunity to raise funds, and they use them, then, to convince other Alaskans - both hunters and nonhunters - to join them, ... temporarily, anyway, to stop wolf control; we've seen it happen twice in Alaska and with recent ballot initiatives.

The only answer I have is to continue to work to manage predators in small areas where we have the biggest problems. I think we ... have to involve the local users, hunters from around the ... state, and reasonable members ... of the environmental community in developing management plans to reduce predation to allow the ungulate populations to grow. It's a time-consuming and costly process, but ... at least it has a chance to succeed. Trying to mandate widespread wolf control has no chance of success; it's going to only result in public outrage, lots of lawsuits, and more ballot initiatives, and increase tensions between the legislative and administrative branches of government.

Number 1429

MR. REGELIN noted that he hadn't covered specific points, line by line, in the bill, but said there are a lot of them. With regard to maximum sustained yield, he cautioned that it is a mathematical concept "of where you manage" that is very difficult to define. He explained, "You manage below carrying capacity so that you maximize offtake and maximize the take from the harvest, and you do need good information to do that. And I know that the lawyers are really concerned that we ... not do that in the way it's being done right now."

Number 1364

CO-CHAIR SCALZI asked Mr. Regelin to specifically point out in the legislation where he has "heartburn about wolf control."

MR. REGELIN answered that the bill, when read in context with the statutes it cites, says the highest priority for manpower

and money will be to implement intensive management. He paraphrased from page 3, beginning at line 6, which read:

(9) to assign the highest priority to the allocation of the fiscal, personnel, and other resources of the division of wildlife conservation for implementation of the plans, programs, and regulations adopted by the Board of Game under AS 16.05.255(e)-(g) in a timely and effective manner;

MR. REGELIN explained that the cited statute is the current intensive-management law. He added his belief, and that of [ADF&G's] attorneys, that the bill also conflicts with another part of statute that says the Board of Game has no fiscal authority or authority over manpower, which are reserved for the administration.

Number 1239

REPRESENTATIVE FATE asked what in the bill gives Mr. Regelin the impression that it "micromanages the commissioner."

MR. REGELIN responded that there are several places. One is that all cooperative agreements would have to have public notice and then be given to the President of the Senate and the Speaker of the House for review. He emphasized the cost, questioned the need to do it, and said, "I think it's trying to tell us exactly how we spend our money and use our manpower, on a very small part of my job, and that's got to be the priority. To me, that's micromanagement."

REPRESENTATIVE FATE disagreed and mentioned missions and measures, that there is a budget process, and that it is the legislature's duty to do exactly what Mr. Regelin had described.

MR. REGELIN replied:

I agree, and I really appreciate that system. I've worked for it for 14 years, and that's the system I want to use - not to be mandated by statute to not even be able to consider other things that are highly important to many Alaskans, and that are necessary for us to do to be a good wildlife-management agency. I ... have no problem with working with the ... finance committees or the budget committees, and I've done it for a long time - given them all the details they

want, and taking their direction. This is something very different, in my opinion.

Number 1089

REPRESENTATIVE FATE requested Mr. Regelin's definition of "intensive game management."

MR. REGELIN answered that current statute "requires that intensive management can be reduction of predation ... or management of habitat." He added that in the vast majority of Alaska, habitat isn't a problem, although there are concerns in some areas. By and large, though, intensive management refers to reducing predation by bears and wolves.

Number 1014

REPRESENTATIVE FATE noted that Mr. Regelin, in speaking of the bill, had characterized it as managing wolves or bears, rather than habitat or the board's ability to "allocate according to good management principles." He asked, "In light of what the governor said - and he has stated that you can manage for sustained yield through habitat restoration, and I'll paraphrase what he said - don't you think that habitat management is just as important as ... predator management?"

MR. REGELIN answered:

I think it depends on the circumstances. ... I guess, in general, they're all important. And if habitat is a problem, ... you're not going to have an abundant population, no matter what the predators are. But the point is, in Alaska we're fortunate that, ... through ... essentially, I'd say, all of the caribou range and nearly all of the moose range, habitat isn't the limiting factor. Habitat varies in quality across the state, but, in general, it's very adequate; it is not, in any way, limiting the populations, the population growth. So we could go out and spend a lot of money in areas where we have too many predators, and you will get absolutely no benefit because the predators are going to take the calf crop, rather than letting it grow up.

Number 0847

REPRESENTATIVE KERTTULA requested clarification about how the bill interacts with what [ADF&G] already does. She said she sees in the statute now that [ADF&G] is to adopt the regulations to provide for intensive management, to restore abundance of productivity of identified big-game populations, if necessary to achieve human consumptive-use goals, "where you've got a preferred use, where you've got 'depletions' reductions and you need enhancements." She asked whether Mr. Regelin was saying, then, "If you already have to intensively manage, the only way that you can reach this level that the bill would require would be to put into place predator control."

MR. REGELIN answered:

That is how I read the bill, and the reality of the bill will be to do that. The Board of Game has already gone through and (indisc.) the intensive-management law that's on the books. They have identified the populations of moose, caribou, and deer around the state ... for intensive-management criteria. And it's most of Alaska because wildlife all across Alaska is very important for human use; that's a primary [criterion]. And they've identified that, and now they've set ... population goals and harvest goals for each one of those, and we're trying to meet those.

This would now add a second layer. ... There's five areas of Alaska where the Board of Game has authorized wolf control or predator management, predator reduction, both wolves or bears - either/or. Those areas are pretty large parts of Alaska. And ... they're ... considering another one right now; we're going through the process of looking at another area because the board had to reduce ... the season length on moose because we just couldn't sustain a harvest level. ... What I see this bill doing, then, is requiring, in each of these five or six areas where the board has authorized wolf control, that we would have to do it. It would become our highest priority for fiscal and personnel and manpower. I don't know how you get around not doing that, and that's where I would see that you'll very quickly, then, have ballot initiatives that say, ... "No, you're not going to do that."

Number 0625

REPRESENTATIVE KERTTULA asked whether [ADF&G] had submitted a fiscal note for the cost of that management.

MR. REGELIN replied:

On our fiscal note, we thought a lot about it, and I did not submit a fiscal note on what it would cost, because I thought if it passes, we would just have to shift the money around. We're not going to get more money. ... We only get a tiny amount of general funds. We would have to take the fish and game fund, license fees, and the federal-aid monies we have, and spend it this way.

The fiscal note I have put together, it says "indeterminate" because it only relates back to the requirement to have public notice for all cooperative agreements that we would do with the universities and places like that, and that ... depends on how many there are and if we keep that. The only way I know how to give public notices is to print them; it costs us about \$1,200 every time we have to put notices like that in the paper.

Number 0539

REPRESENTATIVE KERTTULA asked Mr. Regelin whether he had a ballpark figure for what a program like this would cost. She also asked what programs would suffer if resources were shifted.

MR. REGELIN noted that data collection and getting ready to do predator management for wolves in the McGrath area had cost about \$.5 million. He estimated that each area would require about \$.5 million to collect the appropriate information and then probably about \$100,000 to \$150,000 a year to carry it out. That isn't for manpower, but just for the operating costs.

Number 0450

REPRESENTATIVE CHENAULT turned attention to fish. He mentioned biologists and asked Mr. Regelin what his definition is of "OEG" versus MSY. In response to Mr. Regelin, he clarified that by OEG, he meant optimum escapement goals.

MR. REGELIN replied that he knows they are inextricably linked, but didn't have any management authority over fisheries and

didn't know enough about the escapement goals to answer. He said, however, that to trained biologists, maximum sustained yield is a mathematical concept "based on curves that we do all those things with." On the other hand, politically it is used to mean the desire to maximize harvest. It gets complicated and worries him, he said, "because when you get into a courtroom, you're going to go back to the definition in those textbooks ... that we all studied in college."

REPRESENTATIVE CHENAULT expressed concern about moving away from sustained yield and going towards optimum escapement goals in certain fisheries, which he said he believes are two different things. He offered his understanding from talking to biologists that some people aren't listening to the biologists, and he suggested the possible need to add sideboards to "rein in some boards or some board members that are allowing this to happen."

Number 0192

CO-CHAIR SCALZI referred to page 3 [paragraph (9), lines 6-7], which added language that read in part, "to assign the highest priority to the allocation of the fiscal, personnel, and other resources". He requested a definition of "fiscal" and "personnel" in layman's terms.

MR. REGELIN answered that it relates to how the department spends the allocation given to it by the legislature and how the department assigns manpower. He added:

In my opinion, this bill says that I will assign the highest priority to personnel and funding to predator control, ... with or without regard to other things. I think that those are the kinds of decisions that should be reserved [for] the budget process.

Number 0070

REPRESENTATIVE KERTTULA referred to [Section 6], [paragraph] (10), page 6, lines 27-19, and asked what it would do. It read:

(10) regulating [SPORT] hunting [AND SUBSISTENCE HUNTING AS NEEDED FOR THE CONSERVATION, DEVELOPMENT, AND UTILIZATION OF GAME];

TAPE 02-38, SIDE A  
Number 0001

MR. REGELIN answered that it didn't raise any alarms for him or his staff. The department regulates hunting but doesn't use the term "sport hunting" or necessarily differentiate between hunting for recreation and hunting for subsistence, except for some certain cases under state law. "We don't really try to differentiate in how we collect data or manage wildlife," he added. "The Board of Game gets involved in allocating to either ... recreational hunters or subsistence hunters."

REPRESENTATIVE KERTTULA asked whether it is Mr. Regelin's opinion that [ADF&G] would still have "every authority," that this is perhaps "cleanup language," and that "you're going to control subsistence hunting ... just as you normally do."

MR. REGELIN answered in the affirmative, adding, "The part that worries me is that I have responsibility for almost 480 species of mammals to manage in the state of Alaska, and this is going to dictate that ... our priority is just for moose and caribou. I don't think that's wise."

Number 0213

BOBBY FITHIAN, Executive Director, Alaska Professional Hunters Association, testified that, in general, his organization supports this bill. He offered the following information as facts that his organization has compiled:

In current and existing extensive wildlife management areas where we actually know the numbers of predators and ungulates, we have lost over 55 percent of the cow moose population to predation and natural mortality over the last eight-year period. The calf survival rate in these areas is under 7 percent. The number of female calves that are living to recruitment age are not enough to replenish the naturally depleting herds.

What this proves is, if we stopped all human harvest of moose today, a year from now there will still be less moose. Hunting is having no significant impact on the declining sheep, moose, and caribou populations.

Alaska has chosen to manage its wildlife populations at low-level natural-equilibrium levels, instead of higher-level equilibriums with sustained yield principles for human use. This decision has pitted user group against user group, Alaskan against

Alaskan, all vying for a declining ungulate population. The Alaska Board of Game has responded to this situation by restricting hunting season dates, implementing antler and horn restrictions, implementing drawing and registration permit hunts, implementing Tier I and Tier II designations, and eliminating user groups.

During 2001, 83,700 Alaskan residents purchased 88 percent of the hunting licenses sold in the state; 12,100 nonresidents purchased 12 percent of the hunting licenses sold. Resident license sales generated \$1.83 million for the State of Alaska; nonresident license sales generated \$7.1 million. Pittman-Robertson ... sportsmen's excise tax contributed \$10.4 million. CARA [Conservation and Reinvestment Act] funds contributed \$1.75 million.

The total Alaska Department of Fish and Game budget for 2001 was \$21.3 million. The Alaska general fund contributed \$250,000 to wildlife conservation last year. As shown by these facts, hunters and fishermen pay for their own management of our fish and game resources.

Number 0461

MR. FITHIAN continued:

A generalized annual harvest of moose in Alaska for the past eight years would be approximately as follows: 86 percent predator, 10 percent natural mortality, and 4 percent human harvest. The 1997-through-2001 annual human-harvested moose average is 8,000 moose or ... 4 percent of the statewide population. Some European countries have large populations of moose and few natural predators. These countries regularly achieve a 33-percent annual human harvest of their total moose population without depleting their [overall] herd size.

In relation to the McGrath situation, I am a master guide. I have lived a subsistence lifestyle 30 miles upstream of McGrath at the village of Medfra. I'm intimately familiar with that situation. I've been guiding, raising my family there for portions of the last 20 years. Once the prey populations are

depressed by wolf predation, the impact of bear predation becomes more prevalent. The pendulum for predator control in Alaska has swung from one extreme to another in the last 30-year period. The pendulum is now starting to fall down. Broader public support in Alaska is showing that ... more people are supporting the higher-level sustained yield equilibriums.

Number 0590

REPRESENTATIVE KERTTULA referred to page 7 [Section 9], which would define "high level of human harvest" as a "harvest of not less than 10 percent of the harvestable surplus". She asked why the specific number of 10 percent was arrived at.

REPRESENTATIVE FATE responded that the original bill had 15 to 33 percent, but testimony was heard that the range was too high, given certain facts about habit and so forth. He added, "We dropped it from 15 percent to 10 percent, realizing that this was an obtainable goal. And when I say goal, that's exactly what it is, is a goal." He offered his belief that 10 percent isn't a high level, given that only 4 percent of the moose population is taken for human harvest.

Number 0728

REPRESENTATIVE KERTTULA requested more information on the European countries and what they allow.

MR. FITHIAN answered:

European countries that have large populations of moose but very few predators ... regularly obtain an annual harvest of 33 percent of their overall moose population by using high-level sustained yield principles. These are all moose harvested for human use; ... there's very little predator impact on these particular herds.

REPRESENTATIVE KERTTULA asked whether some of those countries also have "moose farming" and people get permits but it is more like a farm situation.

MR. FITHIAN responded:

This may be a fact in some of those particular herds, but it's still wise to realize that the climatic situation, the geographical situation, the moose population scenario is similar to ours, and they're still obtaining these type of high-level ... sustained yields annually.

CO-CHAIR MASEK asked whether anyone else wished to testify; there was no response. She closed public testimony.

Number 0862

REPRESENTATIVE FATE wrapped up as sponsor. He offered his opinion that this isn't a predator-control bill; he mentioned the statutes cited by Representative Kerttula. Disagreeing with testimony from ADF&G that the bill will micromanage [the department], he suggested it actually gives broader ability to the commissioner to do certain things, striking out and cleaning up some language that he said inhibits the commissioner from doing certain things. Representative Fate also said he might offer an amendment to change "maximum sustained yield" to "maximum benefit", as suggested by a testifier, "because that's, after all, what we're trying to achieve here, is the maximum benefit to the people in the state of Alaska." Offering his belief that management of fish and game in Alaska needs some sideboards, he mentioned input from a lot of people on this bill. He concluded, "We've tried to be balanced and fair in this bill, at the same time [trying to] be sure that the fish and game in the state of Alaska is actively managed."

Number 1044

REPRESENTATIVE FATE moved to adopt conceptual Amendment 1, wherever the bill says "maximum sustained yield", to replace it with "maximum benefit".

CO-CHAIR MASEK pointed out the definition of "maximum sustained yield" at the top of page 8 [Section 10, paragraph (37)]. She asked whether conceptual Amendment 1 would affect that.

REPRESENTATIVE FATE agreed that it would instead define "maximum benefit", a definition he suggested would have to be conceptually defined as well.

CO-CHAIR MASEK inquired whether the committee wanted to define "maximum benefit."

CO-CHAIR MASEK called an at-ease at 3:01 p.m. [There is some blank tape; nothing is missing.] She called the meeting back to order at 3:04 p.m.

Number 1265

REPRESENTATIVE FATE renewed conceptual Amendment 1, but changed the wording to "maximum beneficial use".

CO-CHAIR MASEK asked whether there was any objection. There being no objection, she announced the adoption of conceptual Amendment 1, which would replace "maximum sustained yield" with "maximum beneficial use".

Number 1315

CO-CHAIR SCALZI expressed concern about page 3, lines 6-9 [paragraph (9), discussed previously], which read:

(9) to assign the highest priority to the allocation of the fiscal, personnel, and other resources of the division of wildlife conservation for implementation of the plans, programs, and regulations adopted by the Board of Game under AS 16.05.255(e)-(g) in a timely and effective manner;

CO-CHAIR SCALZI, alluding to Mr. Regelin's explanation that AS 16.05.255(e)-(g) is the intensive-management law, explained his own concern with that directive to the [Board of Game] that mandates intensive management. He said it isn't the legislature's duty, because the board is the allocating arm of [the legislature]. He asked to hear committee dialogue about members' comfort level with that directive.

Number 1480

CO-CHAIR SCALZI, in response to Representative Fate, read aloud from the statute. He then noted that the bill would assign the highest priority of the ADF&G personnel and financial resources to [implementing] that statute. That may direct funds from habitat or any other thing that the department or the public may feel is more warranted, he pointed out.

REPRESENTATIVE FATE highlighted the bill wording [page 3, line 8] that says "implementation of the plans, programs, and regulations adopted by the Board of Game" under that statute.

CO-CHAIR SCALZI again read from subsection (e) of the statute and offered his belief that [the bill] would "make a precedent for big-game resources."

Number 1621

REPRESENTATIVE FATE countered by saying it doesn't change the existing law. He offered his intent and how he said he believes [the bill] still reads:

It's to assign the highest priority of the resources. It's not assigning the highest priority to that. It's just assigning the highest priority to resources - personnel, fiscal resources - assigning those high priorities to the division of wildlife conservation.

Number 1666

CO-CHAIR SCALZI asked, however, whether that sentence [in the bill] directs all of the top resources to this provision.

REPRESENTATIVE FATE answered:

Not all of the top resources. It just says to assign the highest priority to those resources to help with that provision. So, in other words, ... what we're saying here is to use the resources and prioritize those resources for the implementation of that statute. It's a matter ... of prioritizing the resources to implement that statute.

CO-CHAIR SCALZI responded, "That's the way I read it."

REPRESENTATIVE FATE continued, "But not to prioritize the statute itself, necessarily, because ... there's going to be other resources, for example, that they'll be using for other areas - not just this one area."

Number 1718

CO-CHAIR MASEK offered her understanding:

It just sends a message to the commissioner or to the Department of Fish and Game, whenever there is a problem in the state on game issues, that we would have them working and make it their highest priority

as -- in the past when we had the trouble with the moose situation in the McGrath area, we passed legislation here for intensive management. And the board of fish and game did not take action on it, and we therefore had to take other action, and ... Representative Fate, from what I understand, is trying to clear it up so that in the future, if we have emergency situations, that we can use this portion of the bill to expedite the problems that are out there.

CO-CHAIR SCALZI asked, "Kind of like our emergency orders?"

REPRESENTATIVE FATE replied, "Right. And we don't have any." He suggested it is narrow in scope because it isn't for the entire ADF&G, but just for the division.

Number 1856

REPRESENTATIVE KERTTULA offered her belief that Co-Chair [Scalzi's] concern was well placed. She suggested that the section, in a back-door way, gives the Board of Game fiscal power over the department [as mentioned in previous testimony] because right now the board cannot "order the department fiscally"; those powers are specifically excluded by statute. Doing this will result in the board's actions' being the highest priority for ADF&G's fiscal responsibility. She noted that [the committee] has talked more about balance between the board and the department with regard to fish, but said there is a similar kind of balance that she believes this [bill] upsets in favor of the board.

REPRESENTATIVE FATE asked whether it would allay some concern if the language were to assign "a high" priority or "a" priority, rather than "the highest" priority.

CO-CHAIR SCALZI indicated that would ease his concern, and surmised that if the same highest priority for MSY were added for fisheries, it would seem like an allocation measure from [the legislature] because it would be telling the department what it must do.

REPRESENTATIVE FATE concurred.

Number 2024

REPRESENTATIVE FATE moved to adopt Amendment 2, to change "the highest" priority to "a high" priority [paragraph (9), page 3, line 6].

REPRESENTATIVE KERTTULA objected. She said the whole section is the problem under the other statute.

A roll call vote was taken. Representatives Kerttula, Fate, Chenault, Stevens, Masek, and Scalzi voted for Amendment 2. There were no votes against it. [Representatives Green, McGuire, and Kapsner were absent.] Therefore, Amendment 2 was adopted by a vote of 6-0.

REPRESENTATIVE KERTTULA explained her vote: "I'll say 'yes' to the amendment; it's not that. It's that you can't do this under other statute."

Number 2130

REPRESENTATIVE FATE moved to report [Version B, 22-LS0695\B, Utermohle, 4/16/02, as amended] out of committee with individual recommendations and the accompanying [indeterminate] fiscal note.

REPRESENTATIVE KERTTULA objected. She explained:

We just had a lot of discussion about how we're going to implement this overall, and what it means with the other statutes that govern the way we deal with our wildlife in Alaska. We've heard the director [of the Division of Wildlife Conservation] say he's got many species of animals, and what this is going to force him to do is to look at two. It's not that I don't think that we have problems in those two; I do. But to just try to craft something without understanding what the language means, without understanding what it's going to do to the department, ... ignoring the statutes that say that the boards can't control the fiscal policies of the department, it's just out of control.

Number 2190

CO-CHAIR MASEK remarked that she believes the boards need some direction. Although this bill may not pass, she said a change is needed and that the bill sends a message that [the

legislature] is concerned "about how things are being run in the state." She indicated it is a start.

REPRESENTATIVE FATE offered his belief that if there hadn't been problems in management of fish and game, this wouldn't have come up; the bill tries to address some of those problems. He suggested it will take an entire change in philosophy to get fish and game back to where they once were. He said the statute that had been read was fairly recent. He indicated the bill is a way of encouraging ADF&G to manage actively and properly [for the benefit of] rural Alaskans and urban hunters.

CO-CHAIR SCALZI thanked Representative Fate for [Amendment 2]. He agreed that [the legislature] doesn't want to micromanage the boards or ADF&G, but also agreed with the need to send a message of frustration with some of the practices, and to show the public that efforts are being made towards a better process. He said perhaps the bill isn't "it," but that it certainly sends a message.

Number 2382

A roll call vote was taken. Representatives Fate, Chenault, Stevens, Masek, and Scalzi voted to move [Version B, as amended] from committee. Representative Kerttula voted against it. [Representatives Green, McGuire, and Kapsner were absent]. Therefore, CS 3d SSHB 178(RES) was moved out of the House Resources Standing Committee by a vote of 5-1.

#### HB 299-ALASKA PLACE NAMES

CO-CHAIR MASEK announced the final order of business, HOUSE BILL NO. 299, "An Act providing for the naming and renaming of Alaska geographic features." [Before the committee, adopted as a work draft on 4/17/02, was Version F, 22-LS1193\F, Kurtz, 4/11/02.]

Number 2439

CO-CHAIR MASEK noted that there had been public testimony and that public testimony was closed; there was written testimony from previous testifiers. She reminded members that [on 4/17/02] the committee had rescinded its action [in failing to move Version F from committee with a zeroed-out fiscal note]. [Therefore, the subsequent motion this day to bring the bill before the committee was not needed.]

Number 2507

REPRESENTATIVE FATE moved to report CSHB 299 [Version F, 22-LS1193\F, Kurtz, 4/11/02] out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 299(RES) was moved out of the House Resources Standing Committee.

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:26 p.m.