

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 22, 2005

3:36 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Fred Dyson
Senator Bert Stedman
Senator Kim Elton

MEMBERS ABSENT

Senator Gretchen Guess

COMMITTEE CALENDAR

SENATE BILL NO. 102

"An Act relating to district coastal management programs; and providing for an effective date."

MOVED CSSB 102(RES) OUT OF COMMITTEE

SENATE BILL NO. 170

"An Act relating to the Department of Fish and Game, the Board of Fisheries, and the Board of Game; relating to the taking of big game and to the disposition of a mount, trophy, or part of a fish or game animal; setting fees for certain trapping licenses and certain hunting licenses, permits, and tags; setting fees for the resident combined hunting, trapping, and sport fishing license and the resident combined hunting and sport fishing license; relating to the resident small game hunting license; setting application fees for certain hunting permits and stamps; establishing a surcharge on hunting, trapping, and sport fishing licenses; relating to certain hunting, trapping, and sport fishing licenses, tags, permits, and stamps; relating to the fish and game fund; relating to violations of fish and game laws; relating to state management of wildlife; relating to endangered fish and wildlife; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 75(FIN)

"An Act relating to the powers and duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in

promoting and preserving fishing, hunting, and trapping in the state."

MOVED SCS CSHB 75(RES) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 5(RES)
Opposing imposition of a milk tax on Alaskans.

MOVED CSHJR 5(RES) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 16(RES) am
Opposing the designation of any area in the state as a world heritage site, biosphere reserve, or any other type of international designation without the consent of the Alaska State Legislature and affected local governments.

MOVED CSHJR 16(RES) am OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 102

SHORT TITLE: COASTAL MANAGEMENT PROGRAMS

SPONSOR(s): SENATOR(s) STEVENS G

02/14/05	(S)	READ THE FIRST TIME - REFERRALS
02/14/05	(S)	CRA, RES
03/14/05	(S)	CRA AT 1:30 PM BELTZ 211
03/14/05	(S)	Heard & Held
03/14/05	(S)	MINUTE(CRA)
03/16/05	(S)	CRA AT 1:30 PM BELTZ 211
03/16/05	(S)	Moved CSSB 102(CRA) Out of Committee
03/16/05	(S)	MINUTE(CRA)
03/18/05	(S)	CRA RPT CS 1DP 3NR NEW TITLE
03/18/05	(S)	NR: STEVENS G, WAGONER, STEDMAN
03/18/05	(S)	DP: ELLIS
03/18/05	(S)	FIN REFERRAL ADDED AFTER RES
04/06/05	(S)	RES AT 3:30 PM BUTROVICH 205
04/06/05	(S)	-- Testimony <Invitation Only> --
04/22/05	(S)	RES AT 3:30 PM BUTROVICH 205

BILL: SB 170

SHORT TITLE: BD/DEPT OF FISH & GAME POWERS & DUTIES

SPONSOR(s): SENATOR(s) SEEKINS

04/12/05	(S)	READ THE FIRST TIME - REFERRALS
04/12/05	(S)	RES, FIN
04/18/05	(S)	RES AT 3:30 PM BUTROVICH 205
04/18/05	(S)	Heard & Held
04/18/05	(S)	MINUTE(RES)

04/22/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 75

SHORT TITLE: HUNTING, FISHING, TRAPPING

SPONSOR(S): REPRESENTATIVE(S) KELLY

01/18/05 (H) READ THE FIRST TIME - REFERRALS
01/18/05 (H) RES, FIN
03/14/05 (H) RES AT 1:00 PM CAPITOL 124
03/14/05 (H) Moved CSHB 75(RES) Out of Committee
03/14/05 (H) MINUTE(RES)
03/15/05 (H) RES RPT CS(RES) NT 5DP 2NR
03/15/05 (H) DP: OLSON, ELKINS, CRAWFORD, SAMUELS,
RAMRAS;
03/15/05 (H) NR: SEATON, LEDOUX
03/29/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/29/05 (H) -- Meeting Canceled --
03/30/05 (H) FIN AT 9:00 AM HOUSE FINANCE 519
03/30/05 (H) Heard & Held
03/30/05 (H) MINUTE(FIN)
03/31/05 (H) FIN AT 9:00 AM HOUSE FINANCE 519
03/31/05 (H) Moved CSHB 75(FIN) Out of Committee
03/31/05 (H) MINUTE(FIN)
04/01/05 (H) FIN RPT CS(FIN) NT 5DP 3NR
04/01/05 (H) DP: HOLM, KELLY, FOSTER, STOLTZE,
MEYER;
04/01/05 (H) NR: HAWKER, JOULE, CHENAULT
04/08/05 (H) TRANSMITTED TO (S)
04/08/05 (H) VERSION: CSHB 75(FIN)
04/11/05 (S) READ THE FIRST TIME - REFERRALS
04/11/05 (S) RES, FIN
04/22/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 5

SHORT TITLE: NO MILK TAX

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) RES, L&C
03/21/05 (H) RES AT 1:00 PM CAPITOL 124
03/21/05 (H) Scheduled But Not Heard
03/23/05 (H) RES AT 1:00 PM CAPITOL 124
03/23/05 (H) Moved CSHJR 5(RES) Out of Committee
03/23/05 (H) MINUTE(RES)
03/29/05 (H) RES RPT CS(RES) 6DP
03/29/05 (H) DP: OLSON, GATTO, ELKINS, LEDOUX,
SEATON, SAMUELS

04/01/05 (H) L&C REFERRAL WAIVED
 04/07/05 (H) TRANSMITTED TO (S)
 04/07/05 (H) VERSION: CSHJR 5(RES)
 04/08/05 (S) READ THE FIRST TIME - REFERRALS
 04/08/05 (S) RES, L&C
 04/22/05 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HJR 16

SHORT TITLE: OPPOSE UN LAND DESIGNATIONS IN ALASKA

SPONSOR(S): REPRESENTATIVE(S) ELKINS

03/14/05 (H) READ THE FIRST TIME - REFERRALS
 03/14/05 (H) RES
 03/30/05 (H) RES AT 1:00 PM SENATE FINANCE 532
 03/30/05 (H) Heard & Held
 03/30/05 (H) MINUTE(RES)
 04/01/05 (H) RES AT 1:00 PM CAPITOL 124
 04/01/05 (H) Moved CSHJR 16(RES) Out of Committee
 04/01/05 (H) MINUTE(RES)
 04/04/05 (H) RES RPT CS(RES) NT 3DP 5NR
 04/04/05 (H) DP: ELKINS, LEDOUX, CRAWFORD;
 04/04/05 (H) NR: OLSON, GATTO, SEATON, RAMRAS,
 SAMUELS
 04/07/05 (H) TRANSMITTED TO (S)
 04/07/05 (H) VERSION: CSHJR 16(RES) AM
 04/08/05 (S) READ THE FIRST TIME - REFERRALS
 04/08/05 (S) RES
 04/22/05 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

MARY JACKSON

Staff to Senator Wagoner
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 102.

WAYNE REGELIN, Acting Commissioner

Department of Fish & Game
 PO Box 25526
 Juneau, AK 99802-5226

POSITION STATEMENT: Supported SCS CSHB 75(STA).

JENNIFER YUHAUS, Executive Director

Alaska Outdoor Council
 Juneau AK

POSITION STATEMENT: Supported SCS CSHB 75(STA).

REPRESENTATIVE BOB LYNN
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HJR 5.

ILONA RICHEY, Director
Government Relations
Alaska Dairy Coalition
Anchorage AK
POSITION STATEMENT: Supported HJR 5.

TERRY ROBERTSON
Robertson Enterprise
Anchorage AK
POSITION STATEMENT: Supported HJR 5.

JIM EICHSTADT
Dairy Trade Coalition
Madison WI
POSITION STATEMENT: Supported HJR 5.

REPRESENTATIVE ELKIN
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HJR 16.

JENNIFER BAXTER
Staff to Representative Elkin
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HJR 16 for the sponsor.

ACTION NARRATIVE

CHAIR THOMAS WAGONER called the Senate Resources Standing Committee meeting to order at [3:36:37 PM](#). Present were Senators Ben Stevens, Seekins, Elton, Dyson, Stedman and Chair Wagoner.

SB 102-COASTAL MANAGEMENT PROGRAMS

CHAIR WAGONER announced SB 102 to be up for consideration.

SENATOR SEEKINS moved to adopt CSSB 102(RES), version Y, as the working document. There were no objections and it was so ordered.

MARY JACKSON, staff to Senator Wagoner, explained that the change on page 2, line 4, deletes "one year" and inserts "six months". The original bill authorized a one-year extension; this revision authorizes a six-month revision.

[3:39:08 PM](#)

She said that a National Oceanic and Atmospheric Administration (NOAA) letter, dated 4/14/05 provided preliminary approval for the state's coastal zone management program. "So, the state is going forward with their program based on this." A letter from the governor to the districts, dated April 18, explains the process. The fiscal note for the CS was estimated by the department to be about half that of the original bill.

[3:40:23 PM](#)

CHAIR WAGONER said the districts wanted more time, but then agreed with NOAA that they could have plans done by December 30.

[3:41:00 PM](#)

SENATOR DYSON moved to pass CSSB 102(RES) from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

[3:42:58 PM](#) At ease [3:44:25 PM](#)

SB 170-BD/DEPT OF FISH & GAME POWERS & DUTIES

CHAIR WAGONER turned the gavel over to Senator Seekins.

SENATOR SEEKINS announced that he would comment on SB 170. He said that part of the intent of this bill was to try and find a way to get people who buy hunting licenses to agree to an increase to be able to fund additional work for returning Alaska to an abundance of game animals.

As a part of that our intent was to build a greater amount of accountability into the process. For example, when there was an indication that the department wanted an increase in hunting license fees, we said well what have you done with the money that we've given you so far through the fish and game fund.

When we had folks inquire as to the requirements under statute that there be an annual report of how that money came in and where it was spent on a project-by-project basis, the answer that we got was well project is not defined in statute. So, the report that we got

back said here's how much money came in and here's how much money went out. A lot of the folks that are buying those hunting licenses felt that that was not the level of accountability that either the statutes required or that they would like to see in the money that they put into that fund to be used for the direct benefit of the people who bought those licenses.

SENATOR SEEKINS said he made it clear to the department that the intent of the bill was to try to find a mechanism to make sure those who were contributing license fees would have confidence that their money was spent well. He was told the department did not support any more accountability. He intended to hold public hearings across the state during the interim on this issue and would request an audit of the fish and game fund.

CHAIR WAGONER announced that he would hold the bill and have meetings throughout the state.

[3:53:05 PM](#)

CSHB 75(FIN)-HUNTING, FISHING, TRAPPING

CHAIR WAGONER announced CSHB 75(FIN) to be up for consideration.

HEATH HILYARD, staff to Representative Kelly, sponsor, said the original version referred to preserving and promoting sport hunting in the state and it was thought the language was a little inflammatory.

We wanted to make it clear from the get-go that we were not taking a position on the subsistence issue in any way. Likewise, we've also left out references with regard to sport or commercial for fishing, as well.

The CS includes a legislative intent statement that plainly declares that, "In no way are we trying to contravene or contradict the existing constitutional principles of other common users' sustained yield." That was a concern of wildlife viewing tourism constituency.

MR. HILYARD said the original version had to do with the powers and duties of the commissioner and the boards and that has been removed and applied it to the functions of the commissioner and the boards, because substance was desired in their ability to adopt regulations in carrying out the intent of this statute to preserve and promote the heritage of hunting, fishing and trapping in the state.

CHAIR WAGONER asked where the letter of intent appeared.

MR. HILYARD replied that an intent statement is in the CS.

[3:55:38 PM](#)

SENATOR SEEKINS said he wanted to delete paragraph (1) on page 2, lines 2 - 3, because he didn't want to require the duties to be done rather than being optional.

MR. HILYARD said he thought the sponsor would be amenable to that amendment.

SENATOR SEEKINS moved to adopt Amendment 1 to removed subparagraph (1) on page 2.

SENATOR DYSON objected adding "renumber paragraphs as appropriate" as a friendly amendment. There were no objections to Amendment 1 to Amendment 1.

SENATOR ELTON said he was concerned that they were taking away a power of the commissioner on page 4, line 19. They are saying the commissioner doesn't have that power and that is a statement they may not want to make, especially given the cooperative nature in which some of Alaska's fish and wildlife resources have to be managed. He wanted to hear from the commissioner or the department.

SENATOR SEEKINS disagreed.

Because the first part of the paragraph [page 1, line 14] says, 'The commissioner has, but not by way of limitation, the following powers and duties:' The commissioner would still retain that power, but not the responsibility or the duty.

So, there is nothing in removing this that would say that the commissioner 'cannot,' but it would now be at the decision - and it would be at our option of the state and not be required to do so. Under current law, we require the commissioner to do that.

[3:59:43 PM](#)

SENATOR ELTON responded that he understands the language of the limitation, but if some future court has to determine what the intent of the legislature is, that would not be characterized. He fears that the characterization may be that the legislature

has said that they don't think that's an appropriate power to list under the powers and, in fact, the legislature took that out of the statutes. "I would hate to have the argument be made as an interpretation of what we are doing here today."

4:00:30 PM

SENATOR SEEKINS disagreed again - respectfully.

This record is very clear and if there was confusion on the part of the court, they would look back at the action that removed that paragraph. As Judiciary chairman, we are very conscious of the fact in the Judiciary Committee that the record of this proceeding would be what would define for the court what the intent of the legislature was. It's very clear on the record now that the intent here is that it's at the option of the commissioner to enforce these regulations and laws, not a requirement by state law.

CHAIR WAGONER asked for a roll call vote. Senators Seekins, Dyson, Stedman and Chair Wagoner voted yea; and Senator Elton voted nay; and Amendment 1 was adopted.

4:02:48 PM

SENATOR ELTON said the department testified in the past that it wasn't 100 percent supportive. He asked how comfortable the department is now that the duty or responsibility to assist the U.S. Fish and Wildlife Service in the enforcement of federal laws and regulations pertaining to fish and game.

WAYNE REGELIN, Acting Commissioner, Alaska Department of Fish and Game (ADF&G), said he didn't think the bill was a problem.

As long as we can help 'em out if we need to or want to and aren't prohibited from doing that, I don't think that it's a problem. We've never been required to. I'm sure there's [been] times when they have asked for our help and we said we were too busy, we couldn't do it. But, we have a good working relationship with them and I would assume that would continue. Most of the cooperative efforts are on fisheries stuff out in the ocean. A lot of it is with enforcement people there, but I think that the original part of the bill we did support. We felt it should include trapping, too, and fishing.

4:05:12 PM

JENNIFER YUHAUS, Executive Director, Alaska Outdoor Council, supported this bill and the CS and the removal of the amendment that included viewing as a use.

This is not because we don't legitimize the use of viewing wildlife, but that the advocacy of this use is covered through several other avenues through other departments including the tourism industry and it's not the original intent when the bill was introduced.

[4:06:11 PM](#)

SENATOR SEEKINS moved to report SCS CSHB 75(RES) from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

SENATOR SEEKINS noted that someone only has to turn to AS 16.05.935, which is the restriction section in statute:

Cooperation with the federal government in Glacier Bay, along with the statement in there that nothing in this title, Title 16, authorizes the department or the board to enter into an agreement with a department or agency of the federal government that cedes state authority for the management of fish and game, et cetera, that we have taken similar action in the past to not require our state departments to cooperate with federal management.

[4:08:28 PM](#) At ease [4:09:25 PM](#)

CSHJR 5(RES)-NO MILK TAX

CHAIR WAGONER announced HJR 5 to be up for consideration.

REPRESENTATIVE BOB LYNN, sponsor, explained that the milk tax or Dairy Stabilization Act of 1983 was a mandatory dairy promotion assessment established by Congress in 1983 to help increase the sale of surplus milk in the Lower 48 states through generic mass advertising such as the "Got Milk" campaign. This act was maintained by the Farm Security and Rural Investment Act of 2002. Alaska, Hawaii and Puerto Rico were specifically exempted from the milk tax, because they are all milk deficit states. The tax would be a serious detriment to Alaska milk producers and consumers and would benefit Lower 48 states that do have a surplus.

The National Milk Federation pushed for this tax so the U.S. Department of Agriculture could start taxing foreign milk

importers. Under the World Trade Organization (WTO) rules, foreign imports can't be taxed unless all domestic sources are also taxed. HJR 5 is supported by Senator Lisa Murkowski, Senator Ted Stevens and Congressman Don Young and a number of other members of Congress.

REPRESENTATIVE LYNN said:

The bottom line is that Alaska does not need to add to the already high price of milk. Milk in bush Alaska is already outrageous - sometimes up to \$8 or \$10 a gallon - almost to the point that children are drinking soda pop rather than drinking milk because it is less expensive.

He said that day care centers would also feel the pinch. Dairy farmers can hardly make ends meet the way it is now without having this additional burden.

[4:12:55 PM](#)

ILONA RICHEY, Director, Government Relations, Alaska Dairy Coalition, supported HJR 5 and the comments of the sponsor. "We do not need increased costs in Anchorage and other transportation, especially not in the bush...."

She said this would mean an average cost of \$2,700 annually to dairy farmers and there would absolutely be no benefits to them. There are also concerns about the increased costs to the Native population that lives in rural Alaska.

[4:18:04 PM](#)

CHAIR WAGONER asked how she got the \$2,700 figure for the dairy farmers.

MS. RICHEY replied that would be the average tax levied on the milk they produce. It would be about five to twenty cents per gallon. She didn't have exact figures.

[4:18:46 PM](#)

TERRY ROBERTSON, Robertson Enterprises, said she owns and operates two non-profit daycare centers in Anchorage servicing about 200 low-income subsidized children a day. Her centers use about 3,000 gals of milk per year and a twenty-cent tax would add \$600 annually to her operating budget.

[4:20:00 PM](#)

JIM EICHSTADT, Dairy Trade Coalition, Madison WI, said he has been involved in the dairy industry since the early 1980s when the milk tax was originally implemented and added to Ms. Richey's statement that Alaska has never been a part of the federal dairy policy scheme - and for good reason - because Alaska is a milk deficit state, it doesn't participate in federal milk marketing orders or other regulatory affairs run by the federal government in the Lower 48.

The milk tax is probably the worst way that Alaskan can possibly participate in the federal dairy program, because even in the Lower 48, the milk tax is a very controversial program that a lot of farmers down here want to get rid of, because it doesn't benefit them. It's just an added cost that they could do without....

[4:21:37 PM](#)

SENATOR SEEKINS moved to report CSHJR 5(RES) out of committee with individual recommendations. There were no objections and it was so ordered.

[4:22:19 PM](#) At Ease [4:23:03 PM](#)

CSHJR 16(RES) AM -OPPOSE UN LAND DESIGNATIONS IN ALASKA

CHAIR WAGONER announced HJR 16 to be up for consideration.

REPRESENTATIVE ELKINS, sponsor, introduced Jennifer Baxter, his staff person to present the bill to the committee.

JENNIFER BAXTER, staff to Representative Elkin, said that HJR 16 opposes the designation of any area in the state, such as a world heritage site, biosphere reserve or any other type of international designation, without the prior consent of the Alaska State Legislature and the affected local governments. Many of these United Nations designations include private property in-holdings and contemplate buffer zones of adjacent land and could be used to harass or block commercial activities.

Under current law, the Secretary of the Interior can nominate world heritage sites and the Secretary of State can nominate biosphere reserves, both without the approval of the United States Congress.

MS. BAXTER explained that it further urges the United States Congress to pass legislation that will require approval by an act of Congress before any area of the United States or its

territories can be studied or be nominated to be any type of international designation.

CHAIR WAGONER said he enthusiastically supported this resolution.

[4:26:38 PM](#)

SENATOR DYSON moved to pass HJR 16 [CSHJR 16(RES)] from committee with individual recommendations and zero fiscal note. There were no objections and it was so ordered.

CHAIR WAGONER adjourned the meeting at [4:27:19 PM](#).