

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

January 30, 2008

1:03 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Co-Chair
Representative Craig Johnson, Co-Chair
Representative Anna Fairclough
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Scott Kawasaki

MEMBERS ABSENT

Representative David Guttenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 256

"An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 256

SHORT TITLE: ACTIVE GAME MANAGEMENT/AIRBORNE SHOOTING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

05/11/07	(H)	READ THE FIRST TIME - REFERRALS
05/11/07	(H)	RES, JUD
01/30/08	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

KEVIN SAXBY, Senior Assistant Attorney General
Natural Resources Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Presented information and answered questions regarding HB 256.

DOUG LARSON, Director
Division of Wildlife Conservation
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 256.

TOM BANKS, Alaska Representative
Defenders of Wildlife
Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

JOHN TOPPENBERG, Executive Director
Alaska Wildlife Alliance
Soldotna, Alaska

POSITION STATEMENT: Opposed HB 256.

JOEL BENNETT
Alaskans for Wildlife
Juneau, Alaska

POSITION STATEMENT: Opposed HB 256.

SCOTT OGAN, President
Sportsmen for Fish and Wildlife (SFW)
Palmer, Alaska

POSITION STATEMENT: Stated that his organization did not have a hard position on HB 256, but urged that management objectives be set on the basis of predator-prey relationship.

JIM SAMPSON
Salcha River Property Owners
Fairbanks, Alaska

POSITION STATEMENT: During hearing on HB 256, objected to removal of the authority of Fish & Game Advisory Committees to oppose antlerless moose hunts.

ROBERT FITHIAN, Executive Director
Alaska Professional Hunters Association (APHA)
Lower Tonsina, Alaska

POSITION STATEMENT: Supported HB 256.

RICK STEINER
Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

DAVE LYON

Alaska Backcountry Hunters and Anglers
Homer, Alaska

POSITION STATEMENT: Opposed HB 256 as currently written.

TIM SCZAWINSKI

Seward, Alaska

POSITION STATEMENT: Opposed HB 256.

CHERI MURPHY

Ketchikan, Alaska

POSITION STATEMENT: Opposed HB 256.

VAL GLOOSCHENKO

Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

MARY VAVRIK

Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Resources Standing Committee meeting to order at [1:03:31 PM](#). Representatives Kawasaki, Fairclough, Wilson, Seaton, Roses, Edgmon, Gatto, and Johnson were present at the call to order.

HB 256-ACTIVE GAME MANAGEMENT/AIRBORNE SHOOTING

[1:04:44 PM](#)

CO-CHAIR GATTO announced that the only order of business would be HOUSE BILL NO. 256, "An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date."

CO-CHAIR JOHNSON noted that this is a very contentious issue and the legislature is under fairly strict guidelines about interfering with administrative hearings. He said legislators can be involved, but must notify everyone involved with the issue. As that relates to this case, there may or may not be an administrative hearing. He cautioned the committee and members testifying to strictly stick to the focus of their opinions. As long as the committee stays away from administrative hearings

that may or may not be happening in the future in its line of questioning it will not run afoul of that particular ethics statute and ruling.

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REPRESENTATIVE SEATON asked whether this pertains to members talking about the issues involved or talking about the hearing itself.

CO-CHAIR JOHNSON said he believes that if the committee stays with the opinions and positions of the people that are [in the room], without specifically dealing with issues that may or may not be before any type of administrative hearing, the committee will be safe to proceed without running afoul of the ethics law.

1:07:42 PM

REPRESENTATIVE SEATON understood that Co-Chair Johnson said the committee members' opinions, and that committee members cannot discuss issues that could be addressed in a possible hearing. Must those issues be addressed in relation to each member's own opinion, he asked.

CO-CHAIR JOHNSON said he is suggesting that everything heard before the committee is the opinion of the speaker. The issues which may or may not be involved in any future or present administrative hearing can be discussed as an opinion of the person making the statement, but not as part of the may-or-may-not-be-happening administrative proceedings.

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REPRESENTATIVE EDGMON requested Representative Roses to speak on this issue.

REPRESENTATIVE ROSES noted that the request is being made of him because he sits on the Select Committee on Legislative Ethics. He explained that the ethics committee discussed that a legislator cannot act as an individual's legal advocate in an administrative hearing nor can a legislator help an individual prepare his or her position for that administrative hearing. He said a legislator can consult with an individual ahead of time if the individual asks what he or she should do and advise the individual on who to talk to or where to go. He said legislators are free to talk about their own opinions and free to discuss any issue brought up by an individual speaking on the

issue. He acknowledged that the line is narrow between discussing an issue versus taking a firm position or legal opinion.

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REPRESENTATIVE WILSON expressed her concern that there may be times when not all committee members are aware of possible proceedings in order to prevent themselves from committing an infraction.

REPRESENTATIVE ROSES assured the committee that if an ethics complaint was filed against a member as a result of a committee hearing such as this, it would probably not hold a lot of water because the point of a committee hearing is to discuss an issue or bill and committee members are not present to advocate on behalf of any one individual or party involved in a dispute. He cautioned that a committee member would not want to have a discussion in this room and then go out and advocate on behalf of a particular individual or group in which a hearing is either currently being held or going to be held.

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CO-CHAIR JOHNSON described an example of a legislator calling a department and talking to the commissioner about an issue that is under administrative review. In that case, he said, the legislator would be required to notify everyone involved in the administrative review. He said he wants to avoid the House Resources Standing Committee being in a situation where it must contact everyone involved in a maybe-or-maybe-not administrative review. He requested committee members to stay on focus with the issues and opinions of the people speaking and not deal with any type of administrative review that may or may not be happening.

[1:14:45 PM](#)

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), said he has been assigned to work with the Board of Game since 1992.

DOUG LARSON, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game (ADF&G), introduced himself.

MR. SAXBY said HB 256 was put together to keep a commitment made to a number of legislators during the Murkowski Administration. It was recognized by those legislators that there were a number of weaknesses in the current intensive management law and in the same day airborne law and the two of these laws were in many aspects contradictory to each other. These legislators asked for a commitment from the Department of Law and the Alaska Department of Fish & Game to suggest improved language and this is the result of that request. While the work was begun by the Murkowski Administration, he said, it was completed and introduced by the Palin Administration because Governor Palin agreed that these are changes she would like to see as well. It is not in response to any litigation. It is the first comprehensive effort by agencies to make these two contradictory laws work together.

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CO-CHAIR GATTO, at the request of Representative Fairclough, noted that HB 256 was introduced by Governor Palin and read the title of the act aloud:

An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date.

MR. SAXBY explained that Sections 1 and 2 are only conforming language, and Sections 3-5 rewrite and simplify the current intensive management law. He said that when the current law was deliberated and adopted, the then-governor prohibited the Department of Law and the Alaska Department of Fish & Game from suggesting any improvements for making the law more workable because he intended to veto it. The bill was vetoed and the legislature overrode it. Mr. Saxby said the Board of Game established a procedure to follow because the current law is so complex, but the procedure is subject to constant challenge because the law's complexity results in confusion with the public and with interest groups over what the legislature really intended.

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CO-CHAIR GATTO asked for an example showing how the Alaska Department of Fish & Game is having frustration.

MR. SAXBY responded that the most obvious example is the definition of harvestable surplus. As taught in colleges, it means: the amount of animals or fish that are born in a year, minus natural mortality, minus the amount that is necessary to provide recruitment or maintain the population, then what is left over is the harvestable surplus available for human harvest. However, he said, the current law creates confusion because it uses a different definition that moves predation over to the other side of the equation. Thus, when a biologist testifies before the Board of Game, the board is never sure which definition is being used - the definition the biologist learned in college or the narrow interpretation in the current law - unless the biologist specifies each time which definition is being referred to. The definition of sustained yield has similar problems, he said.

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REPRESENTATIVE SEATON asked which side of the equation does natural mortality to predation fall under the current management regime, and how will HB 256 change that.

MR. SAXBY replied that the definition of harvestable surplus is being removed so that the ordinary definition will be what applies in the future. In the ordinary definition, predation falls on the left side of the equation and the harvestable surplus is what is left over after all natural mortality including predation. Under the current law, predation falls on the right side of the equation and the law contemplates a constant allocation between predators and humans of the harvestable surplus.

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REPRESENTATIVE ROSES inquired why sheep, goat, elk, and bison are not included with moose, caribou, and deer in the new subsection (e) as being animals that are important for providing a high level of human harvest.

MR. SAXBY answered that all those species are important for providing for human harvest. However, the current intensive management law directed the Board of Game to identify ungulate populations important for providing high levels of human harvest. The only populations identified by the board as important for high levels of human harvest - a much more elevated level of use in management - are some deer, some moose, and some caribou populations.

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REPRESENTATIVE ROSES understood that a considerable amount of revenue is generated by guiding services for sheep, goat, and other species, and he wanted it on the record as to what the reason was for leaving these species out. He surmised there is no connection to guiding services.

MR. SAXBY said correct. Both the current law and HB 256 lay out the requirements for when intensive management must occur, he said. They do not prohibit intensive management from occurring in any other situation. The board could intensively manage porcupines if it decided it was important to do so for some state reason.

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REPRESENTATIVE KAWASAKI asked whether "high level" is defined.

MR. SAXBY responded that this definition is in Section 5 of HB 256 and that it is the one definition that is being retained from existing law. He continued his testimony, explaining that the nub of the intensive management law will be as follows: 1) the Board of Game must identify these important populations and set harvest and population objectives for them; 2) the Board of Game must always manage those identified populations to meet the board's objectives for abundance; and 3) if the objectives are not being met, the Board of Game must take affirmative action to meet those objectives, including active management measures.

MR. SAXBY said the term "active" management, rather than "intensive" management, is being used now for a number of reasons. First, under existing law intensive management is defined as active management. Second, intensive management equates to just predator control in many people's minds. Third, active management is viewed by managers and a large percentage of the public as a broader term that encompasses habitat manipulation and other innovative techniques that might be useful for increasing a game population. While predator control will always be an important and useful tool, he said, the message being sent is that it is not the only method being focused on.

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MR. SAXBY, in response to Co-Chair Gatto, explained that he is using the term "managed for abundance" as shorthand for "managing for high levels of human consumptive use". In further response to Co-Chair Gatto, Mr. Saxby said that the term "sustained" is a permanent requirement. Once populations are identified as important, they must be managed in times when they may be too abundant and action must be taken to get down to the goals, and populations must be managed in times when they are not as abundant as they should be and action must be taken to bring them up to the objectives. Thus, there must be a long sustained ability to reach the goals.

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REPRESENTATIVE SEATON inquired whether populations managed for human consumptive use means that the target for those populations must be the carrying capacity of the environment. Is the objective that everything on the left side of the equation must be restricted unless the population is at the carrying capacity of the habitat, he asked.

MR. SAXBY answered no. The Board of Game went through this exercise under the current intensive management law and set objectives for all of the important populations. The objective is never set at carrying capacity, he explained, since at carrying capacity productivity is very low because the population is stressed and few young are born each year. Management must be for earlier on the growth curve, a little bit below carrying capacity.

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MR. LARSON added that carrying capacity can be a moving target and active management is a way to adjust populations relative to what habitat can support at any given time. He noted that ADF&G's experience over the years has shown that there are cases where habitats can support more prey animals or game species, but that other factors keep those populations from reaching the carrying capacity level. There are also examples where carrying capacity has been reached or exceeded. One such example is moose in Game Management Unit 20A near Fairbanks, and another is the colonizing moose in Gustavus where the department has had to implement female harvest in order to bring the numbers down in conjunction with habitat availability and carrying capacity.

MR. SAXBY described the way this concept has been illustrated to the Board of Game. If a population is right at carrying

capacity, which is a theoretical situation that is difficult to identify, the harvestable surplus is actually zero. This is because the number of animals born each year is necessary to maintain the population at that level of carrying capacity. Thus, by taking the population a little lower than carrying capacity, there is more productivity and a larger harvestable surplus.

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CO-CHAIR GATTO asked whether there is any relationship to the term "what the market will bear" because what is being talked about is maximizing happiness, maximizing take, and maximizing the number of satisfied people.

MR. SAXBY said correct. There is some overlap in that economic concept and the concept of managing for a high level of human consumptive use.

REPRESENTATIVE SEATON inquired whether "high level of human use" under HB 256 changes over time as far as the population of hunters or subsistence users. Or, is it a fixed number set by the Board of Game even if there must be more restrictions on the season because more people want to participate in the harvest.

MR. SAXBY responded that current law also requires objectives to be set, although in a less direct way. The Board of Game adopts the objectives as regulations, but regulations can be changed.

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REPRESENTATIVE SEATON said he is not concerned with what the board has done, but rather with the requirement in HB 256 that the Board of Game "shall" set these high levels. Will the definition of "high level" change depending upon the expressed need or desires of the human populations to utilize an ungulate population, he asked.

MR. SAXBY responded that the Board of Game does not expect the process to change under this bill for setting objectives, it will just be clearer to the public as to how this is done and what the mandate is to do it. So, yes, if the carrying capacity changes over time, ADF&G will inform the board that another look must be taken at what the population objective should be. If demand changes over time, ADF&G will also bring that information to the board, as will user groups. The department would then compare the suggested harvest changes to what the land is able

to produce. He said anyone can suggest a regulatory change any time that it is up for consideration by the board. The board has developed a regulation that directs how hunter demand, biological capacity, and historic use are to be considered when establishing the objectives.

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MR. SAXBY continued his presentation. He said Sections 6 and 7 are conforming changes, and Sections 8-10 make substantive changes to the same day airborne law. Section 8 adds brown bear for the first time to the general statutory prohibition against same day airborne hunting. It is a protective measure, he said, because ADF&G thinks if it is important to protect wolverines and wolves, it is also important to protect brown bears. Section 8 does allow same day airborne shooting of the protected animals when the Board of Game determines that it would be conducive to meeting its objectives under the active management requirements in what today is called the intensive management law. Currently, he said, the intensive management law requires the board to adopt intensive management, which generally means predator control, at either the same board meeting in which it acts to reduce the taking of the species or at the very next board meeting.

MR. SAXBY noted that the same day airborne law was originally adopted as the result of the citizens' initiative. This law was designed to make it rare and difficult to conduct same day airborne shooting, he said, and airborne shooting is by far the most commonly used, most efficient, and most humane method to conduct predator control. So, he said, the laws are at cross purposes to each other and many of the specific requirements in the laws create the situation where it is difficult to follow both laws. So far the courts have agreed with the Board of Game when challenges have been filed, he related, but the board keeps facing the challenges because the process is so convoluted. He advised that HB 256 simplifies the situation by directly linking the same day airborne law to the intensive management law so that same day airborne shooting is justified as a means to meet the objectives of the intensive or active management law.

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MR. SAXBY explained that under current law, it is illegal for an ADF&G employee to fly out to a location and shoot a problem animal on the same day that the employee flew out. Section 9 of HB 256 would ensure that this prohibition does not apply when

the department must go out and take wolves, wolverines, or brown bears for nuisance or public safety reasons, for a museum specimen, or for any of the other authorities the department has for taking game. He said Section 10 clarifies that the prohibition on same day airborne shooting does not include tranquilizer guns, and that Sections 11-14 are simply repealers, transition provisions, and effective dates that do not make any important changes.

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CO-CHAIR GATTO inquired whether the deletion of "a disease or parasite of a predator population" on page 4 [lines 30-31] is covered by the new language [page 4, lines 19-20], "conducive to the health of a predator population".

MR. SAXBY said the language is being simplified to bare essentials. In further response to Co-Chair Gatto, Mr. Saxby confirmed that the new language would also include such things as genetic disorders and overpopulation.

[1:40:51 PM](#)

TOM BANKS, Alaska Representative, Defenders of Wildlife, spoke from the following written testimony:

Founded in 1947, Defenders of Wildlife has over one million members, supporters and subscribers across the nation, including 5,800 in Alaska, and is dedicated to the protection and restoration of native animals and plants in their natural communities. Thank you for the opportunity to testify today.

By way of introduction, I come from a family of hunters and fishers and have enjoyed these and many other outdoor activities. I am a volunteer assistant Scoutmaster at the Boy Scout troop at St. John United Methodist Church in Anchorage. I own a home in Anchorage. Before joining Defenders of Wildlife, I have been a school teacher, naturalist, backcountry ranger and enforcement officer on state and federal lands in Alaska and elsewhere for twenty-five summers. I have a bachelor's degree in park and recreation administration and master's degree in ecology.

Defenders of Wildlife strongly opposes House Bill 256 because the proposed legislation would:

- Thwart the intention of two voter-enacted bans on same day airborne hunting of wolves;
- Add brown bears to the list of species that can be shot by private aerial gunners;
- Eliminate the requirement that the Board of Game base its predator control programs on scientific information provided by the professionals at the Department of Fish and Game; and
- Limit public participation on issues that affect all of Alaska.

House Bill 256 (HB 256) would delete the requirement that a comprehensive game management plan be in place prior to invoking aerial predator control. Aerial predator control should only be considered when it is part of a carefully thought-out program based on adequate supporting data, opportunity for public review, and public support.

HB 256 completely ignores and dismisses the intention of the voter-enacted bans on same-day airborne shooting of predators and seeks to move predator control decisions out of the realm of science and further toward an ideologically-driven decision-making process by the Board of Game, a body which is not representative of the diverse values that Alaskans place on their wildlife.

The Board of Game and certain hunting organizations claim that predator control is necessary to provide subsistence food for those whose survival depends on it. Unfortunately, this misrepresents the facts. Annual state harvest records show that the vast majority of the animals, two-thirds to three-quarters of the moose and caribou hunted in Alaska, are harvested by urban and out-of-state residents. Urban residents also harvest most of the animals in the majority of the current predator control areas. Rural people are often portrayed as the chief beneficiary of the predator control programs. Clearly, they are not. The desire to maintain the venerable tradition of hunting is important, but it does not come with the guarantee that every hunting outing will yield a catch. Fair chase implies that a

successful hunt is not guaranteed, but depends on the skill of the hunter and the natural abundance of prey.

More than 56,000 square miles are currently under airborne predator control by private pilots and gunners who secure a permit. This is nearly 9.8% of the state's total land area, or roughly one-third of the lands under state control. This sizeable portion of the state is currently subject to aerial shooting of predators. To increase the portion of Alaska wildlands subject to this practice, by loosening the standards in order to add them more hastily, is wrong and indefensible.

A state initiative sponsored by Alaskans for Wildlife is scheduled for a vote on August 26, 2008. HB 256 would re-write and tilt current law in a direction exactly opposite from the voters' intent as expressed in 1996 and 2000. Over 56,000 Alaskans recently signed an initiative petition to vote on this initiative in 2008. The Legislature should honor their wishes, not confuse the issue for them, and not undermine the initiative process by passing this legislation the way it is written.

Rather than streamlining the predator control process to make it less accountable to science and the Alaskan people, this important controversy should be decided on the basis of (1) the actions that a clear majority of Alaskans would find balanced and equitable; (2) the predator control, if any, that would be necessary in areas where there is true need to raise more prey for human sustenance or for protection of a prey population from experiencing a biological emergency; (3) the actions that are necessary to maintain the health of the landscape for the long run. It is well known that an excess of prey animals like moose or caribou can not be supported for the long term without damage to the habitat and impacts on their own health. Crowding an area with moose or caribou beyond the landscape's carrying capacity is not wise stewardship.

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CO-CHAIR GATTO commented that out of state hunters and urban hunters, which includes Juneau, are being portrayed by Mr. Banks

as the bad guys and that the animals must be protected for rural residents.

MR. BANKS said the reason he brings up the point that two-thirds to three-quarters of the moose and caribou statewide are harvested by urban Alaska residents or out of state hunters is to correct the widely held misperception that, by not having predator control, people who are needy for foodstuffs and do not live on the road system are the prime sufferers. The number of moose and caribou captured in the state is roughly proportionate to the number of urban residents and out of state hunters, he said. In other words, rural residents are not taking more per capita than urban residents. He acknowledged that residents in every community in the state have deep cultural and family connections to hunting and he does not disregard or dismiss that importance. However, some have more actual need for reasons of less accessibility to other foodstuffs.

[1:52:27 PM](#)

MR. BANKS continued with his written testimony:

“Conservation” or “stewardship” is what all responsible hunters and non-hunters agree upon, and this requires a long-term vision - something which is lacking in this bill.

The proposed law would eliminate the requirement that the Board of Game determine that “predation is an important cause for the failure to achieve” prey numbers and hunter success, and that “a reduction of predation can reasonably be expected to aid in the achievement of the objectives.” Instead, the Board would merely need to conclude that aerial or same-day airborne shooting “would be conducive” to meeting one of its prey objectives or harvest levels. This is a significant relaxation in the standard by which predator control areas are established.

The requirement that the Board of Game decisions be based on information from the Alaska Department of Fish and Game would also be eliminated.

Like the existing intensive management statutes, the proposed bill fails to acknowledge the important role carnivores play in keeping ecosystems and prey populations healthy and vigorous. The widespread,

intense culling of predators results in losses to ecosystem complexity, diversity, and function. This legislation positions the Board of Game to accelerate a program for political reasons - but without attention to whether such a program is fiscally prudent or biologically sound. The proposed legislation gives no recognition to the importance of conserving healthy ecosystems in their natural, wild condition - an important value that Alaskans and tourists from around the world recognize and experience each year in growing numbers. Alaska is special and unique, and with proper, conservative management, can remain that way.

We strongly oppose liberalizing the existing, already one-sided intensive management statutes. Alaska needs wildlife management laws that promote science-based, effective, fiscally prudent wildlife management that addresses the legitimate needs and viewpoints of all user groups. While it is valid to allocate wildlife to satisfy legitimate need for traditional foods, we need to accept that it is impossible to satisfy a desire for an unlimited quantity of moose or caribou for a growing number of hunters, particularly from out-of-state, while keeping Alaska's wild character. Unfortunately, HB 256 is aimed toward continuing to elevate numbers of prey animals beyond the landscape's ability to support them, and thus the legislation is grossly unbalanced. Alaska needs sound wildlife management laws that ensure sustainable predator and game populations for generations to come on a landscape that can produce "only so much" while maintaining its full complement of predators and prey in a wild, untamed setting.

In conclusion, wildlife management should include a "best available science" standard that the Board is required to apply in its decision-making. And Alaskans should not be shortchanged. It is clear that new legislation is needed to address the deficiencies in the intensive management statutes, but this bill in no way addresses the problems and provides the balance that's needed. I strongly urge you to oppose this bill.

[1:56:27 PM](#)

REPRESENTATIVE WILSON said she was unaware that the intense culling of predators was widespread.

MR. BANKS responded that approximately 9.8 percent of Alaska's land area, absent acreage in the territorial waters, is currently under aerial predator control. He said this is a large area in his point of view, as it is the size of New York State. Alaska has a great wildlife resource that ought not to be intensely managed to the extent that its wild lands are treated like a game farm and the wilderness and general wildness of the state are lost.

REPRESENTATIVE FAIRCLOUGH asked how the Alaska membership of Defenders of Wildlife is quantified.

MR. BANKS said he would research that information, but generally it is the number of people who have signed up for the organization's magazine by giving a sum of \$15, or by giving any other amount of money, or by logging on to the organization's website and requesting regular e-mail updates.

[1:59:32 PM](#)

REPRESENTATIVE FAIRCLOUGH requested a follow-up from Mr. Banks as to what the Defenders of Wildlife membership looks like in the state of Alaska, not who logs on to the website. She also asked Mr. Banks to provide what he believes the sufficient population is for a particular species in the nearly 10 percent area of Alaska being referred to.

MR. BANKS replied that there is no one correct answer to how many wild animals should be on a landscape. It is ultimately a values-based decision regarding the number of people versus the number of wild animals living in an area, as well as how much wildness is left in an area and demand versus supply. Hunter demand for a certain number of prey animals drives the numbers within the intensive management statute, he said, and that demand is translated into a goal as to how many animals must live there to meet that harvest and this results in the carrying capacity being exceeded. There are numerous examples of populations that later crashed after being propped up to high levels.

[2:02:22 PM](#)

CO-CHAIR JOHNSON inquired whether people who signed up for a [Defenders of Wildlife] e-mail account are counted as part of the 5,800 [Alaskan members].

MR. BANKS said that could be possible, in which case perhaps some of staff and committee members are supporters without knowing it. The number of actual monetary supporters within Alaska is perhaps a smaller number, he said. He offered to get back to the committee with that number.

CO-CHAIR JOHNSON commented that he must be included in the 5,800 because he signs up for a lot of things to get information.

MR. BANKS recollected that, for the state of Alaska, about half of the people receiving e-mails from Defenders of Wildlife are actual contributors.

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CO-CHAIR JOHNSON said he does not want to have his name taken off the list because it is good to know what is out there even if he does not agree with it, but it means the number is 5,799.

MR. BANKS said he would amend his statement to say 5,800 supporters and others.

REPRESENTATIVE FAIRCLOUGH related that the nonprofit organizations she represents when not in a legislative session consider members to be only those people who have donated to the organizations within a time period of one year. She recognized that a majority of Alaskans in two different elections supported one particular point addressed by Mr. Banks.

[2:05:32 PM](#)

REPRESENTATIVE ROSES assumed that Defenders of Wildlife would not be opposed to any kind of predator control as long as it is done wisely.

MR. BANKS responded that his organization is not completely opposed to predator control where it can be done in consort with the best available scientific information and where it has broad public support. He said it comes down to means and methods, and the actual numbers of wolves that are taken. It is common knowledge that 10 times more wolves are trapped and hunted in Alaska than are shot from the air. In the last four years an average of 147 wolves per year were shot from planes in the

aerial control program compared to nearly 1,500 wolves legally trapped or hunted. He said his organization believes aerial gunning injures many animals that do not die a death that is okay. In cases where it is determined that predator control is necessary to prevent a biological emergency, Defenders of Wildlife would support the use of helicopters by state or federal officials.

[2:07:54 PM](#)

CO-CHAIR GATTO surmised that Defenders of Wildlife does not have an intractable stand opposing predator control.

MR. BANKS said correct.

CO-CHAIR JOHNSON asked whether Defenders of Wildlife would be opposed to reinstituting a bounty on wolves as a method of control.

MR. BANKS replied that the bounty is not a scientifically targeted method of reducing wolves that are causing a specific problem in a specific area. He said for that reason his answer would be no.

[2:08:53 PM](#)

CO-CHAIR JOHNSON inquired whether predator control by trapping is a scientific method in a specific area.

MR. BANKS answered that trapping is an accepted practice in Alaska as a method of gathering game, furs, and other products. Thus, he said he cannot give a statement that Defenders of Wildlife would oppose trapping. As far as predator control is concerned, he said his organization would support reduction that is scientifically based and targets individual packs that are living in an area where the prey population is small and unable to recover. Management versus hunting and trapping are different things; hunting and trapping are not a scientific means of predator control. He offered to get back to the committee with further details in this regard.

CO-CHAIR GATTO noted that he has asked Mr. Banks to come back on Friday and have a roundtable with various other parties.

[2:12:23 PM](#)

JOHN TOPPENBERG, Executive Director, Alaska Wildlife Alliance, stated that his 30-year-old organization is not anti-hunting and supports responsible hunting based on accepted biological standards and ethical principles of fair chase. He said he was a major crimes detective in Colorado before moving to Alaska 12 years ago, and that he has done nature and wildlife photography for 20 years and was an active hunter and fisherman prior to that. He said HB 256 will promote yet more attempts to artificially inflate moose and caribou populations beyond accepted standards associated with sustained yield. It is known that manipulating naturally occurring wildlife populations often has undesirable, unintended consequences. Predator control in Alaska has led to over browsed range, increased incidents of disease, and boom-and-bust prey populations. He noted that the conservation community has seriously different interpretations of the proposed legislation. He acknowledged his great respect for the Board of Game and the service it offers the state. He related that biological concerns about Alaska's extreme predator control programs are summarized in the National Research Council's 1997 review. Additionally, concern has been expressed by the American Society of Mammalogists in a recent letter to the governor signed by 172 scientists, including Alaskans. "We want our wildlife to be responsibly managed in accordance with accepted scientific principals, and for the benefit of all Alaskans - consumptive and non-consumptive users alike," he stated. "Subsistence needs are important to Alaskans and best met when ecosystems are managed for long term, sustainable prey populations. The Board of Game must be required to consider the best science available, and consider evidence that predator control is sometimes ineffective, expensive, and unnecessary."

MR. TOPPENBERG reported that the courts agreed with conservationists and ruled that the bounty program briefly put in place was not within Alaska statutes. Additionally, he said, there was an earlier extreme predator control program that did not meet the Board of Game's own standards for procedures and implementation and the courts agreed with conservationists in that regard as well. He said HB 256 puts America's last great wildlife Eden at risk and is a risk not worth taking.

[2:16:39 PM](#)

JOEL BENNETT, Alaskans for Wildlife, stated that he served on the Board of Game for over 12 years and that he has been an active licensed hunter for each of his 39 years in Alaska. He noted that he is one of the main cosponsors of the [2008 Airborne Wolf Ballot] Initiative and that he was also the

organizer and sponsor of the 1996 and 2000 initiatives. Thus, he has been involved with this issue, both on and off the Board of Game, for over 30 years.

MR. BENNETT said he is not opposed to predator control, that he supports it and believes a majority of Alaskans support it. However, the critical issue is under what conditions people support it and with what rules and what methods. "That is where the whole dispute comes to rest," he said, "and that is really the focus of HB 256 because each of the initiatives dealt primarily with that exact statute, Section 8 that Kevin Saxby outlined to you which is the Airborne Hunting Act." He pointed out that language in the two previous initiatives and the third initiative slated for August 2008 states that predator control is permitted when there is a demonstrated biological emergency and when carried out by Alaska Department of Fish and Game personnel. All three initiatives also state that the programs must be based on adequate scientific data and remove only the minimum number of animals necessary to correct the specified problem.

MR. BENNETT noted that the existing airborne hunting statute, AS 16.05.783, is already far more permissive than was the 1996 initiative. He said HB 256 would reduce that standard almost to nothing in terms of when airborne predator control can occur. Under today's law, a biological emergency does not need to be found in order to conduct predator control, he said, but a biological basis for a predator control program does need to be found. If the problem cannot be identified - that it is wolves or bears or something else - then how can the problem be solved, he asked. A causal connection that predators are a problem must be demonstrated; do not just do predator control because it is conducive to raising harvest objectives.

[2:22:29 PM](#)

MR. BENNETT stated that HB 256 would remove the whole underpinning of the Airborne Hunting Act statute, thus it is not just a matter of making things simpler or eliminating confusion. He said this is in the face of a National Academy of Sciences report that found Alaska should include more data and scientific support for its programs, not less. At the 2006 Wildlife Society meeting in Anchorage, he related, scientists involved with Alaska issues raised concerns over the scientific basis of the state's control programs. He urged the committee to keep in mind that wolves, brown bears, and black bears are big game animals, not just predators to be eliminated.

MR. BENNETT charged that the obvious purpose of HB 256 is to make it as easy as possible to authorize predator control programs, it is not clarification or housekeeping. Why is it even necessary, he asked, since the board has not had any problem conducting predator control in the 60,000 square miles of central Alaska that are currently specified for predator control. He said Alaskans for Wildlife urges no legislative action be taken to remove this most minimal requirement that exists today in law. If predators are not the problem, they should not be removed. By repealing the two statewide initiatives the legislature has gone against the will of the people repeatedly, and HB 256 further erodes public confidence.

[2:26:44 PM](#)

REPRESENTATIVE SEATON cited his concern that using the word "shall" in Sections 3 and 4 of the bill takes away the Board of Game's authority for establishing a balance and dictates that management be carried out in a particular way. He requested Mr. Bennett's opinion as a former member of the Board of Game.

MR. BENNETT responded that Section 3 is absolutely appropriate enabling legislation. The question of what is a high level of human harvest is debatable. Alaskans for Wildlife does not believe, for instance, that it should be based on a historical population high, it should be a lesser level than that. Regarding Section 4, he remembered that most enabling statutes were written with "may" instead of "shall" because the board must factor in numerous things to make a decision and "shall" ties the board's hands. However, this is not the main crux of what Alaskans for Wildlife is opposed to, he said. Rather, it is the method, it is the airborne hunting statute that has really formed the basis of the organization's position.

[2:29:17 PM](#)

CO-CHAIR JOHNSON asked whether Mr. Bennett would be opposed to using helicopters for hunting wolves.

MR. BENNETT said he would not be opposed as long as the standards he outlined were met: if it is a biological emergency, if it is done by ADF&G personnel, if it is based on adequate data, and if it removes only the minimum number of animals in the minimum size area. That would be a far more humane way to do it than what is being done now from fixed wing, he advised.

2:30:03 PM

CO-CHAIR JOHNSON inquired whether maintaining wolves below their historical highs would be okay, given Mr. Bennett's statement about maintaining game animals below historical highs.

MR. BENNETT replied that the key is historic populations of prey animals because that is what the target goal is that is trying to be achieved. He pointed out that there are no reliable numbers as far as how many wolves are in the state. When he was on the Board of Game, the number was always 4,000-7,000 wolves. Now the number is said to be 7,000-11,000, a range of 4,000-5,000. There are no up-to-date population surveys.

CO-CHAIR JOHNSON said it seems to him that the balance of an ecosystem is not being considered, but rather that Alaskans for Wildlife wants to balance it on the side of the predator.

2:32:22 PM

SCOTT OGAN, President, Sportsmen for Fish and Wildlife (SFW), disclosed that he is a natural resource manager for the Department of Natural Resources, but that he is testifying on his own time under a leave slip and his testimony is strictly his own. He noted that the country of Sweden harvests 100,000 moose a year through the management of habitat. Sweden does not have a predator problem because it does not have any predators. Alaska's habitat is vast and could support far more moose, he said. Currently, about 7,000 moose are harvested annually in Alaska.

MR. OGAN explained that Sportsmen for Fish and Wildlife was formed in Utah after that state announced it was going into watchable wildlife because its wildlife populations were in serious decline like they are in Alaska. The organization succeeded in getting Utah's constitution amended to require a two-thirds vote in order for any wildlife initiatives to pass. Thus, he said, Utah's Division of Wildlife Resources is not whipsawed back and forth every two to four years as is happening in Alaska. He said it takes time to write the regulations after an initiative and implement the policy. Then the legislature comes back and changes the direction, resulting in another period of implementation. Therefore, the Alaska Department of Fish & Game spends its time implementing policy rather than managing game in the field.

2:34:29 PM

MR. OGAN said he quit hunting in Game Management Unit 13 about 13 years ago because there was not a single calf in the moose herd due to predation by wolves and bears. Coyotes are also a serious problem, he opined, as one pair of coyotes will take 80 percent of the lambs of Dall sheep. If the Alaska Department of Fish & Game was free to manage game instead of people, it would be able to specifically focus on the calving and lambing areas and target the individual problem predators that have learned to exploit the young.

MR. OGAN disagreed with the previous speaker's statement that raising harvest levels is no standard at all. He said people in western Alaska are so concerned and desperate to feed their families that they are talking about denning, [a killing method] that is extreme both politically and in technique. He said his organization does not have a hard position on the bill, but he would like it known that there are other successful models. He encouraged the committee to look at the Utah model and learn about the phenomenal turn around of the species in that state. In some cases populations were increased 150-500 percent by the setting of management objectives for predator-prey relationship.

2:38:52 PM

JIM SAMPSON, Salcha River Property Owners, stated that his organization is a group of Interior hunters who reside, recreate, and hunt in the Salcha River drainage in Game Management Unit 20B. He said he is limiting his remarks to how HB 256 might affect the concerns of his group, although most people in his group believe in a strong predator control program. The Salcha River Property Owners are part of a growing number of Interior hunters who are opposed to the liberal taking of hundreds of moose cows and calves, specifically in Game Management Units 20A and 20B. The Alaska Department of Fish & Game is seeing a push back against its policy of overharvesting these cows and calves. He related that hunters are split on whether there should be an antlerless hunt. Cow hunts were implemented in the Interior in 1975 and, as a result, AS 16.05.780 was passed to give Fish & Game Advisory Committees the authority to weigh in on these hunts. He said he was told that HB 256 will rescind this legislated authority of advisory committees throughout the state and, if this is true, it is troublesome. He said his organization is concerned about transparency because members were initially told there was no legislation planned to take this authority away and now they are

being told that HB 256 was introduced nine months ago and would do just this. He asked the committee to find out whether HB 256 does in fact rescind the authorities of advisory committees to oppose antlerless hunts, and if it does then that should be stated more clearly in the legislation.

[2:42:51 PM](#)

ROBERT FITHIAN, Executive Director, Alaska Professional Hunters Association (APHA), said he is a master guide who has hunted in Western Alaska, the upper Kuskokwim country, and the Wrangell Mountains. He said his organization supports HB 256 because it represents a much needed change to the state's existing intensive management law. Historically, ballot initiatives have stripped the Alaska Department of Fish & Game of much of its authority to effectively manage Alaska's wildlife for the best interests of the whole and the state's constitutional mandates. The loss sustained by the state by these initiatives is huge, he said. They are the basis of significant problems: lack of traditional food sources for Alaska residents, the substantial rural/urban divide, the loss and lack of economic opportunity for rural Alaska, the deterioration of the guide and transporter industries, and the pitting of Alaskan against Alaskan for declining wildlife resources. This situation is well documented, he said, by comparing the decline in economic growth and population in remote communities that are dependent on moose and caribou populations with the timing of the initiatives.

MR. FITHIAN stated that Alaska currently has substantial regions of low density equilibriums for moose, caribou, and sheep populations where over 80 percent of the annual mortality is from predation, 10 percent is from natural mortality such as old age, starvation, and disease, and 4 percent is from human harvest. This equation is unhealthy and trends opposite of Alaska's constitutional mandates for sustained yield and maximum benefit. He said the current intensive management law has inherent failures that retard the effective ability of the Alaska Department of Fish & Game to do its job and provide for the best interests of the wildlife and people of the state. He related that his organization's legal counsel, Bill Horn, has reviewed HB 256 and supports the bill's content and its ability to give the department the needed management authority without the continued window of challenge. Since the existing intensive management law has been in effect, he said, the nonresident sportsman has lost opportunity to hunt on over 60 million acres in Alaska that was there 20 years ago.

2:46:00 PM

[Co-Chair Gatto turned the gavel over to Co-Chair Johnson.]

REPRESENTATIVE ROSES requested the answer to Mr. Sampson's question regarding whether HB 256 would remove the authority of Fish and Game Advisory Committees to oppose antlerless hunts.

CO-CHAIR JOHNSON replied that he wrote the question down and would like to move through the public testimony.

REPRESENTATIVE ROSES said as long as the committee gets it on the record.

2:47:53 PM

RICK STEINER disclosed that he is a professor at the University of Alaska, but that his comments are his own. He endorsed the testimony of the Defenders of Wildlife, the Alaska Wildlife Alliance, and Joel Bennett [Alaskans for Wildlife]. He strongly opposed HB 256 and urged that it die in committee because it is a waste of time until the voters have their say on the initiative in August 2008. The legislature could then choose to revisit the issue next year. Giving the Alaska Department of Fish & Game and the Board of Game specific mandates to conduct aerial predator control is not the right thing to do. Alaska's credibility regarding science and policy decisions for wildlife management is seriously in question right now due to the state's opposition to listing of the polar bear [as an endangered species] as well as predator control. He said he does not find transparency in how decisions are made by the state or the Alaska Department of Fish & Game.

2:49:34 PM

DAVE LYON, Alaska Backcountry Hunters and Anglers, testified that during the past 20 years he has been a commercial fisherman, a sport fishing guide, and a big game guide, and that he currently runs a water taxi business in Homer. My organization's co-chair has been discussing HB 256 with the Alaska Department of Fish & Game and the Department of Law since last summer, he related. Numerous details are poorly conceived and Alaska Backcountry Hunters and Anglers opposes the bill as currently written. It is important to make predator management legally defensible, but the changes to existing intensive management law in this bill have the potential to make the cure worse than the disease. This bill would eliminate what the

Department of Law calls constrictive definitions, and includes removal of biological definitions currently in statute such as harvestable surplus, a defined term currently used to determine when some predator control programs can take place. This is a "catch 22", he opined, because constrictive definitions must be removed in order to make predator control legally defensible, but by doing so the floodgates are opened to a wide array of possible scenarios that could be detrimental to sound wildlife management and which could not be challenged in court by anyone.

MR. LYON maintained that HB 256 would remove mandates that the Board of Game receive and fully consider input from ADF&G biologists and managers regarding prudent wildlife management. It would legalize aerial shooting of bears in intensive management areas solely at the discretion of the Board of Game and essentially give all authority on future predator management decisions to the Board of Game. He said his organization strongly supports science-based wildlife management that operates on Alaska's constitutionally mandated sustained yield principles. This bill fails to address important intensive management concepts and definitions that would be left to the discretion of the Board of Game, an appointed political body, to define. The goal of Alaska Backcountry Hunters and Anglers is to safeguard the future of hunting and fishing in the state by insisting on strong, unbiased science to create management strategies and definitions, he said. As written, HB 256 gives too much authority to a political body that may or may not heed the recommendations of trained wildlife management.

[2:52:23 PM](#)

TIM SCZAWINSKI spoke on his own behalf in opposition to HB 256. He informed the committee that there is pending federal legislation regarding aerial wolf hunting. Registered hunters comprise 14 percent of Alaska's population, he said, thus he is speaking on behalf of the overwhelming majority of the population who has twice voted against aerial wolf hunting. These resources belong to all Alaskans, and in some cases they belong to all Americans. "Our voices are not really being addressed when it comes to this harvesting issue," he said.

CHERI MURPHY testified on behalf of herself that she is vehemently opposed to any aerial hunting of wolves and now HB 256 and SB 176 are adding bears and wolverines. These animals are resources, not predators. She endorsed Mr. Banks and noted that she twice voted against aerial wolf hunting. The voice of the people is being ignored, she said.

2:55:28 PM

VAL GLOOSCHENKO stated that she has a master's degree in ecology and has worked as a biologist for her entire career. She said she currently works for a federal agency but that she has a leave slip and is testifying on her own time. She supported the stand of the majority of speakers and said they represent the majority of Alaskans on this contentious issue. This bill would open the door to greatly increase the killing of wolves, bears, and wolverines statewide without the necessity or requirement to consider scientific rational. She said she attended the 2006 Wildlife Society Meeting in Anchorage where there was vehement discussion and criticism of the Alaska predator control program, including testimony from former Alaska Department of Fish & Game biologists.

MS. GLOOSCHENKO agreed with Mr. Bennett that HB 256 would reduce the state's scientific standards to nothing. This is a sweeping change, not housekeeping, she contended. It is a move away from basic science and sound wildlife management to nothing - to conducive. What is conducive, she asked. For the past several years she has heard the same theme over and over again while attending Board of Game meetings - there is not enough moose for game in every pot. There is a limit, the state cannot have excessively high standards. The guides themselves said there has to be a limit, she related. A decision must be made on how to keep Alaska free from the allegation that it is becoming a game feedlot.

REPRESENTATIVE FAIRCLOUGH requested witnesses to state whether they oppose or support the bill.

MS. GLOOSCHENKO said she strongly opposes HB 256.

2:59:26 PM

MARY VAVRIK stated her high opposition to HB 256 as an Alaska resident, voter, and citizen of the United States. The bill would prevent any scientific oversight over the Board of Game predator control program, she said. The system of checks and balances in government should also apply to the Board of Game. She understood the Board of Game's original mission to be wildlife management for diversified users and to represent all Alaskans. However, the Board of Game consistently favors hunting and trapping above all other uses and values of wildlife regardless of scientific evidence or public opinion to the

contrary. Alaska voters have twice voted against aerial killing of wolves, she said, and adding brown bears and wolverines to the slaughter is completely unacceptable. She said she did not appreciate her hard earned tax dollars going toward the heinous, unnecessary, expensive, and brutal massacre of innocent wildlife. She urged the committee not to pass HB 256.

[3:01:03 PM](#)

CO-CHAIR JOHNSON, in response to Representative Roses, said he would not close public testimony and encouraged people to testify at the next committee meeting.

CO-CHAIR JOHNSON, in response to Representative Seaton, said the intention is to bring back HB 256 on Friday [February 1, 2008] for those wishing to testify.

REPRESENTATIVE FAIRCLOUGH reminded the committee that a roundtable had been scheduled for Friday.

CO-CHAIR JOHNSON responded that the roundtable is important but no more so than public testimony. He said public testimony may be limited to those people signed up for today.

[HB 256 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:03 p.m.