

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 4, 2008

1:03 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Bob Roses

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
01/30/08	(H)	Heard & Held
01/30/08	(H)	MINUTE(RES)
02/04/08	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

RON SOMERVILLE, Member
Board of Game
Juneau, Alaska

POSITION STATEMENT: Supported HB 256.

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

POSITION STATEMENT: Answered questions regarding HB 256.

DOUG LARSON, Director
Division of Wildlife Conservation
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 256.

NICK JANS
Juneau, Alaska

POSITION STATEMENT: Opposed HB 256.

ROD ARNO, Executive Director
Alaska Outdoor Council (AOC)
Wasilla, Alaska

POSITION STATEMENT: Supported HB 256.

JOE KLUTSCH, President
Alaska Professional Hunters Association
King Salmon, Alaska

POSITION STATEMENT: Supported HB 256.

WADE WILLIS
Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

CLIFF JUDKINS, Chair
Board of Game
Wasilla, Alaska

POSITION STATEMENT: Supported HB 256.

PATRICIA CUE
Homer, Alaska

POSITION STATEMENT: Opposed HB 256.

DAVID OTNESS
Cordova, Alaska

POSITION STATEMENT: Supported HB 256.

YOLANDA DE LA CRUZ

Anchorage, Alaska

POSITION STATEMENT: Opposed HB 256.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Resources Standing Committee meeting to order at [1:03:25 PM](#). Representatives Edgmon, Kawasaki, Seaton, Gatto, and Johnson were present at the call to order. Representatives Guttenberg, Fairclough, and Wilson arrived as the meeting was in progress.

HB 256-ACTIVE GAME MANAGEMENT/AIRBORNE SHOOTING

[1:03:50 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."

[1:05:09 PM](#)

RON SOMERVILLE, Member, Board of Game, testified in support of HB 256 on behalf of the Board of Game and himself. He said the bill clarifies things and makes them less cumbersome. Article 8 of the state constitution has four sections dealing with natural resources, he related. He read Section 4 of Article 8 regarding sustained yield which states (original punctuation provided):

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

MR. SOMERVILLE said it is clear that the state, legislature, or Board of Game - depending on who the authority is delegated to and, in this case, it is the board - has the option of determining what the best beneficial use is. He read Section 3 of Article 8 regarding common use which states (original punctuation provided):

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

MR. SOMERVILLE read Section 1 of Article 8 regarding statement of policy which states (original punctuation provided):

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

[1:08:17 PM](#)

CO-CHAIR GATTO asked how long Mr. Somerville has been on the Board of Game.

MR. SOMERVILLE responded five years. In further response to Co-Chair Gatto, Mr. Somerville stated that his thought on maximum use, when tied to Section 2 [of Article 8], is that when there is a resource that presently has no value to the citizens of the state, then there is an obligation to figure out a way to use the resource so it benefits Alaskans. It does not mean to abuse it, he said, but it does mean to use it.

[1:09:03 PM](#)

REPRESENTATIVE SEATON inquired whether the directives in HB 256 - "shall" identify those ungulate populations where human use is desired, "shall" establish the level of human use that is desired, and "shall" manage for that purpose - take away the Board of Game's flexibility to manage "among beneficial uses" as written in Alaska's constitution.

MR. SOMERVILLE answered no. He said the question is whether the beneficial uses of particular resources are being taken away in the process of providing other beneficial uses. As long as it is biologically possible and not a conservation concern, then it is not right to take away the use of those particular resources, he said. The flexibility remains because in some cases nonconsumptive use can be provided in a particular area by allowing additional consumptive use in an adjacent area or for another species. For instance, he said, there are wolf viewing areas around [Denali National Park and Preserve] and non-hunting areas for a variety of species throughout the state, yet the state still tries to provide for the maximum beneficial uses of those resources by Alaskans.

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REPRESENTATIVE SEATON stated that the Board of Game currently has the flexibility statutorily and constitutionally to provide for various uses. However, Section 3 of HB 256 [lines 12-14] directs that, "The Board of Game shall identify moose, caribou, and deer populations that are important for providing for a high level of human harvest and shall establish objectives for human harvest..." and Section 4 [line 16] directs that, "The Board of Game shall adopt regulations to achieve the objectives..." Will the Board of Game lose its flexibility because HB 256 dictates that it must manage for certain things, he asked.

MR. SOMERVILLE replied he does not think it takes away the flexibility. The statutes require the Board of Game to identify those populations of moose, caribou, and deer that are used primarily for food, it does not say all populations. The board has the option of identifying those populations and that is not a bad system.

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), stated that he is the attorney general assigned to the Board of Game. He said HB 256 would not change the obligations that the Board of Game currently has. Under current statute, the board is obligated to identify for intensive management those ungulate populations that are important for high levels of human consumptive use. This bill just makes those obligations clearer and less complicated. As far as removing some of the board's discretion, the discretion comes in at the outset when the board decides which populations are important to manage for high levels of human consumptive use.

[1:15:39 PM](#)

CO-CHAIR GATTO inquired whether HB 256 clarifies the statute or overrules the statute.

MR. SAXBY responded he thinks it is clear in the earlier statute but it is a much more complicated process, and HB 256 simplifies it down to its bare essentials. He reiterated that the Board of Game's discretion is exercised at the outset, but once a population is identified there would still be discretion to manage it for other uses so long as the intensive management goals are met.

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REPRESENTATIVE GUTTENBERG related that there are differences in interpretation of what a scientist considers a sustained yield and what the Board of Game considers a sustained yield for human use. How is this difference in interpretations - the conflict between sustained yield and intensive management - reconciled in HB 256, he asked.

MR. SAXBY said HB 256 would remove the definition of sustained yield from current law because it is a narrow definition that is problematic and does not coincide with the broader interpretations of sustained yield. Sustained yield varies from population to population or place to place or time to time and removing this narrow definition will allow more flexibility. The constitution requires sustained yield management and the constitution always trumps any statute, he said. So, intensive management could never legally result in a situation that violated the sustained yield principle.

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REPRESENTATIVE GUTTENBERG inquired whether this means that the legislature's definition of sustained yield would no longer be in statute and would become something that the Board of Game establishes to coincide with this intensive management theory.

MR. SAXBY stated, "The board will operate under the sustained yield principle on intensive management questions just like it does for every single other decision it makes. There is currently no statutory definition of sustained yield except for the intensive management process itself." Every decision that the board makes on seasons, bag limits, and whether animals should or should not be harvested, is made without a legislatively designated definition of sustained yield and is prompted by scientific information from the Alaska Department of Fish & Game about sustained yield parameters. This will be treated the same way, he said.

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REPRESENTATIVE GUTTENBERG requested Mr. Saxby to provide him with a copy of what the Alaska Department of Fish & Game defines as sustained yield.

MR. SAXBY deferred to Doug Larson of the Alaska Department of Fish & Game.

REPRESENTATIVE GUTTENBERG said he would wait until Mr. Larson testifies.

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MR. SOMERVILLE quoted Article 8, Section 2, of the constitution which states (original punctuation provided):

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

MR. SOMERVILLE said the legislature and Board of Game are always faced with the basic principle that 60 percent of Alaska is federal land and 80 percent of those are off limits to any sort of intensive or proactive management. Thus, the state must provide these maximum benefits to its residents on essentially 150 million acres of state and private lands. There is no luxury not to have the legislature give direction to the Board of Game to identify and establish population objectives and harvest objectives, he opined. In a good part of the state, moose, caribou, and deer are virtually the livestock of Alaskans. The legislature is saying that these three important food species shall be given the highest priority. He said he does not think HB 256 takes away scientific justifications.

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MR. SOMERVILLE added that any lawyer can craft up disagreements in statistics or objectives. He acknowledged that good scientists have said that what the board is doing is not scientifically credible. The point is, he said, the board has taken the information presented to it, along with recommendations from the Alaska Department of Fish & Game, and decided on specific actions designed to provide the maximum benefit to Alaskans. He addressed the criticism that the five [predator control] areas selected by the board only benefit urban sportsmen. A lot of people are looking for areas to go hunting, he said, and the Board of Game has a hard time accommodating all of those. Providing places for urban people to go hunting takes pressure off some of the rural areas that are receiving too much competition. The largest Native community in Alaska is Anchorage and the Board of Game is as obligated to them as it is to the people in outlying areas.

[1:24:31 PM](#)

CO-CHAIR GATTO asked whether the Board of Game has a charter, bylaws, or some other document that gives it direction.

MR. SOMERVILLE replied the legislature has identified in statute the overlying obligations and responsibilities of the commissioners as well as each of the boards. The statutes provide for a variety of uses, including subsistence, hunting, fishing, and trapping.

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CO-CHAIR GATTO said the word maximum is clear to him, but he wrestles with the word benefit because he has been unable to make benefit inclusive to include everybody agrees. For instance, when someone takes a moose did that benefit me?

MR. SOMERVILLE responded that it could, but that Co-Chair Gatto is not the maximum of the population of Alaska and that is the point. The federal government controls 60 percent of Alaska and it does not provide what he considers the maximum benefits to Alaskans - some benefits, yes; but the maximum, no. One of those benefits is taking animals for food. The federal government does not participate in any proactive management of these food species, he said. There is a critical biological situation in Game Management Unit 9 related to caribou and moose, but the federal refuge people do not help in alleviating the problem, so it falls back on the state to provide this. Regarding maximum benefits, if the population is prohibited from doing something on 60 percent of the state, is there not some benefit in providing for that on the 150 million acres? The legislature and the boards must balance that, he said. If 5 people benefit from one thing and 600,000 benefit from something else, obviously the latter is the maximum benefit.

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CO-CHAIR GATTO inquired whether the word critical is the same as emergency.

MR. SOMERVILLE replied not in his opinion. He asked if the question is in regard to the use of the word emergency in the 2008 Airborne Wolf Ballot Initiative.

CO-CHAIR GATTO said the initiative uses this reference.

MR. SOMERVILLE understood the term used in the initiative to be biological emergency.

CO-CHAIR GATTO asked how a situation would be determined an emergency as would be directed by the 2008 initiative versus heading it off beforehand.

MR. SOMERVILLE said he is speaking for himself when addressing the terms used in the 2008 initiative and that determining what constitutes a biological emergency has never been agreed upon by three different judges. Regarding irreversible decline, he said he is unaware of any active managers in the United States who would say management of a population should only start when it is in irreversible decline. Allowing a moose or caribou population to reach a point of irreversible decline would be biologically irresponsible, he said. What if fisheries were managed this way? That is the situation Alaska was in at statehood.

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CO-CHAIR GATTO agreed that the state was previously in an irreversible decline and serious prohibitions were required to reverse that decline.

MR. SOMERVILLE pointed out that it took a long time to reverse that decline. Why would the state want to wait 50-70 years for a moose population to recover from a predator pit when it has the responsibility to provide food for its residents, he asked.

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REPRESENTATIVE EDGMON asked for Mr. Somerville's opinion regarding the importance of having someone on the Board of Game who resides in rural Alaska.

MR. SOMERVILLE noted that he worked for the Alaska Department of Fish & Game for 24 years during which time he worked with both the Board of Game and the Board of Fisheries. He said there were very few times when Alaska Natives were not represented on the board, but that did not mean their interests were not represented. It is hard to get rural people to step up to the plate because there is not much benefit to being on the boards. However, he said, it is politically prudent to [have a rural resident on the Board of Game].

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REPRESENTATIVE WILSON requested Mr. Somerville's opinion regarding the changes in Section 2 of HB 256 which would delete the term "intensive management" and change "big game prey populations" to "game populations".

MR. SOMERVILLE said he looks at this as a simplification. Intensive management conjures up all sorts of misconceptions. Taking out the words big and prey does not change anything because it still identifies game populations and thus remains consistent. He said he thought intensive management was struck from all of the existing law in this redraft, not just Section 2. He deferred to Mr. Saxby, drafter of the bill.

MR. SAXBY explained that in HB 256 "intensive management" has been changed to "active management". In Section 2 it is unnecessary to include the term "intensive management" because the reference is to the controlling statute, AS 16.05.255(f). He directed attention to Section 5 where the term "intensive management" has become "active management" and is defined. In further response to Representative Wilson, Mr. Saxby said active management is defined only in [Section 5(j)(1)], but it could be defined more precisely if the legislature chooses. The reason predator control is specifically stated in the definition is to make it clear that the use of predator control continues to be approved by the legislature.

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REPRESENTATIVE SEATON inquired what the Board of Game does that is not included in the definition of active management.

MR. SAXBY noted that intensive management is currently defined as active management. Active management is viewed by biologists and game managers as something beyond the passive management of setting seasons and bag limits, and could include among other things habitat manipulation, predator control, supplemental feeding, medical treatments. He deferred further explanation to Mr. Doug Larson.

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DOUG LARSON, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game, said several definitions would be removed from existing [law] and sustained yield is a good example of why that is appropriate. He read the existing definition of sustained yield which states: "Achievement and

maintenance in perpetuity of the ability to support a high level of human harvest of game subject to preferences among beneficial uses on an annual or periodic basis." He said this definition is far reaching and includes some subjectivity which is inappropriate. This is not the definition that was in any of my science textbooks, he pointed out. A more appropriate definition of sustained yield would reflect what state biologists attempt to achieve with wildlife populations, he said, and state something similar to the following: "The numbers of animals in any given population that can be taken without adversely affecting that population and that provides for perpetual use of that population." It does not necessarily have to be high levels, he said, because sustainability is not necessarily going to be high depending on populations.

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CO-CHAIR GATTO asked whether harvestable surplus is the same thing as sustained yield.

MR. LARSON replied that harvestable surplus is the amount of animals that could be harvested in any given year that is beyond births and mortality. As populations increase, some animals will die from disease, accidents, and predation. He said the Alaska Department of Fish & Game would argue that predation is part of what comes out of that equation when talking about harvestable surplus, which is then the amount of animals above that that could be taken out. Harvestable surplus is different in terms of sustained yield in that harvestable surplus varies from a number of factors that are part of the equation. So, they are not really the same, he said, but they have similarities because of having to do with what is above and beyond maintenance. In terms of what the harvest can be, there are other variables that play in beyond just what is sustainable.

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CO-CHAIR GATTO surmised that there is a very real danger in harvestable surplus because it requires knowing literally everything for every population, including the habitat, birth rate, and mortality rate. It would be difficult to know what the right formula is for every single place.

MR. LARSON said that is exactly the difficulty that biologists face in trying to get good information upon which to make decisions relative to populations of wildlife. The Alaska

Department of Fish & Game recognizes that it cannot do that on a detailed level all across the state. Consequently, the department focuses on the places where it has the most concerns, and those concerns can come to the department through public input. Obviously, he said, the department most needs good information for those places where populations have been identified for high levels of human harvest. Biologists provide the best information they have to the Board of Game, and it is always a given that there could be more information. The department tries to get the information that is necessary to make sound decisions about how to ensure the long term sustainability of both predator and prey populations, he said.

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MR. SOMERVILLE stated that the Board of Game has been tied up in court on these issues for years. He said predator control has not jeopardized any predator population in the state. In the early 1970s, he related, the Alaska Department of Fish & Game went into a research area in the upper Nelchina and took out every wolf in the area for the purpose of finding out what was causing the rapid decline in moose calf survival. The cause turned out to be bears and that discovery was important in terms of how to manipulate the bear population to benefit the moose. But, he said, the point is that within five years of being taken out, the wolves had reestablished themselves throughout the entire area. All the time spent in court is a waste of time, he said, the legislature needs to make it simple. Tell the board what should be done and then let the board and the department exercise their best judgment in getting there. He said less than 700 wolves have been taken from the five predator control areas over a five year time period. In comparison, in 2002 the U.S. Department of Agriculture took 86,000 coyotes in 37 of the Lower 48 states and, of those, 35,000 were taken by the use of aircraft. Yet there is this disproportionate interest in Alaska. Predator control is not hunting or fair chase, it is implementing programs. It is not whether the state is making good judgments, it is whether a procedural problem can be found, and that is the problem with the existing law and the purpose for getting HB 256 before the legislature. There are differences of opinion as to what the mandate to the board and the department is.

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CO-CHAIR GATTO commented that the predators will disappear when their prey disappears and there is nothing left to eat. He

agreed that wolves have no trouble reproducing and asked how big a wolf litter is and how often are litters born.

MR. SOMERVILLE said the average litter size is 8-10 once a year.

CO-CHAIR GATTO remarked that prey populations in irrevocable decline cannot find one another in order to reproduce. He said he is concerned about doing nothing in areas where there is a catastrophic decline because the decline will just continue.

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REPRESENTATIVE SEATON noted that even if predators are eliminated, prey populations will still go through up and down cycles due to other reasons. Thus, the dispute is over what it is that the state is trying to control. He drew attention to page 2, line 29, of HB 258 and asked what criteria the Board of Game will use to determine a high probability of success for human harvest. That may become the crux of the decision making process as to how much predator control there must be because the definition is high probability of success.

MR. SOMERVILLE said the board faces that a lot. A 35-50 percent success ratio is a high probability of success, he stated, and records of past success are kept by the Alaska Department of Fish & Game. Right now moose populations are very high south of Fairbanks and the board is trying to push people into that area by methods and means and relaxation. The success ratios will be watched closely because they indicate, in some cases, whether the regulations are doing any good.

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REPRESENTATIVE SEATON said the definition for achieving a "high probability of success for human harvest" [line 29, page 2] seems to be a definition without any definition because it does not say what ratio constitutes a high probability of success.

MR. SOMERVILLE said his hesitancy for giving a figure is because anything that the legislature does not clearly define will be up to the Board of Game to define. The board makes definitions all the time to further elaborate or interpret what it thinks the legislature meant. This is probably one of those that the board deals with, he said, but it is on a species-by-species basis. A 30 percent success ratio for moose hunting would be considered terrible by deer hunters, and a 30 percent success ratio for caribou would be considered terrible by residents of western

Alaska. There has to be some flexibility, but high probability means it cannot be five percent, he said. Expectations vary by unit and by population as to what is an acceptable ratio.

MR. SOMERVILLE concluded his testimony by requesting the legislature to make things as clear, precise, and simple as possible so the Board of Game is not stuck in court and can get its mandates done. If the Board of Game cannot do it, he said, money must be given to [the Alaska Department of Fish & Game] to use helicopters to take those animals. He questioned the statements of opponents who said they supported predator control being done by trained biologists. When that was done before in some of the department's research programs the opponents were not supportive, he said.

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REPRESENTATIVE SEATON drew attention to page 4, line 17, and noted that he is trying to get a handle on what the standard would be for the decision to take an action that "would be conducive to achieving the objectives established for high human harvest...." He asked whether that standard is so broad that the Board of Game would be required to adopt practically any proposal put before it, even if the causal relationship is unknown because HB 256 requires that the board "shall".

MR. SOMERVILLE said he thinks the intent of the rewrite is that the board must, at the least, be moving in the direction conducive to achieving those objectives. When requested to implement predator control the board considers whether it has the ability to implement a successful program, he explained. Unless there is a chance for success at predator control the board will not do it. He said the previous wolf control in Game Management Unit 13 demonstrated that it was still worthwhile - even though bears were the major problem - because wolves take 1,000 to 4,000 moose a year in that unit. Thus, the board decided to affect a predator control program in this area. However, there have been times when the board has decided against taking action in an area because it knew that taking measures would not result in moving in the direction of being conducive to achieving the objectives.

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REPRESENTATIVE WILSON asked how much more would it cost to conduct predator control by helicopter than by [fixed wing aircraft].

MR. LARSON responded he does not have the exact figure but could get that to the committee if requested. He said the private citizens involved in the program are qualified and go through a screening process before they are allowed to participate. These citizens use and invest their own resources, he said, which means it is resources that the Alaska Department of Fish & Game and the state do not have to invest. Helicopters are extremely expensive and would cost many times more than what is currently being expended on the program.

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REPRESENTATIVE WILSON related that, according to critics, the present method of predator control is inhumane. What does the Alaska Department of Fish & Game do to ensure that it is done in as humane a way as possible, she inquired.

MR. LARSON said the department looks at a person's longevity in and knowledge of a specific control program area and the person must prove his or her expertise in using the machinery. Many of the people permitted by the department were actively involved in land and shoot hunting before it was disallowed. Thus, many of them are quite efficient and best qualified to do this in a humane manner. Absent an aerial technique, the department would have to use ground techniques which are inhumane, he pointed out. For example, snares are useful but not very palatable and not the best technique. If it is the public's and the legislature's will that the department practice active management, it important that the department have the best available tools to get the job done effectively, efficiently, and as humanely as possible.

[2:04:26 PM](#)

REPRESENTATIVE WILSON agreed that shooting would be more humane than trapping.

CO-CHAIR GATTO added that snares and traps are indiscriminate and he has seen ravens and other animals caught in traps. Additionally, trappers sometimes have trouble with weather and finding their own traps. Therefore, he is adverse to both trapping and poisons. A helicopter and a state employee gunner is unaffordable and would make it impossible to do, he opined, but Supercubs are a good device.

MR. SOMERVILLE explained that a predator control program must take 75-85 percent of the wolf population to be effective. Sometimes helicopters are actually better than fixed wing and can be used to "clean up". So, helicopters should not be taken off the table, he advised.

CO-CHAIR GATTO said he did not want to take helicopters off the table, but pointed out that the 2008 Airborne Wolf Ballot Initiative would require helicopters and disallow fixed wing aircraft.

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REPRESENTATIVE SEATON understood that hunting and trapping take far more predators than aerial hunting. Will aerial control that reduces a predator population by 85 percent put hunters and trappers out of business, he asked.

MR. SOMERVILLE replied that the aerial control program conducted in the five areas was done in conjunction with trappers. The problem with only using trapping in a predator control program is that few animals can be taken beyond 40-45 percent of the population. He said he has never seen trapping be able to take 85 percent. The Alaska Department of Fish & Game works with trappers to ensure that they have good opportunities to participate in predator control, he related.

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CO-CHAIR JOHNSON asked what kinds of firearms are used to take predators in relation to practicing a humane method.

MR. LARSON answered that shotguns with 00 buckshot are used from aircraft because there are more projectiles and a rifle is used for land and shoot. In further response to Co-Chair Johnson about the possibility of using automatic weapons from airplanes, Mr. Larson explained that the issue has not been what firearm is used to harvest the wolves. There has been good success using shotguns, he advised.

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CO-CHAIR JOHNSON surmised that once an animal is targeted, the success rate is good so that wounding and suffering of the animals is a nonissue.

MR. LARSON said the Alaska Department of Fish & Game expects that every effort will be made to kill these animals as humanely as possible. This is done by making sure that the permitted individuals have a record that shows they can do this effectively and humanely.

2:14:17 PM

REPRESENTATIVE GUTTENBERG inquired whether removal of a certain animal from a pack will result in a higher reproductive rate within the pack or change where the pack or individuals range.

MR. LARSON acknowledged that wolf dynamics do play a part in the ultimate population levels throughout the state. However, the predator control programs are focused on removing a certain number of animals relative to the existing numbers, and social dynamics are not part of the consideration because it is not something in the department's control.

2:15:50 PM

NICK JANS said he spent 20 years living in Alaska's western villages and has killed many wolves and caribou himself. In general a wolf dies hard, he related, and there is no humane way to kill anything. However, that is a separate issue, he said, and he is here on behalf of himself to represent a viewpoint that does not get much representation. By constitution, Alaska's wildlife belongs to all Alaskans, including the rural residents not represented on the Board of Game. He said Mr. Somerville's support of HB 256 is a red flag to him because he feels that Mr. Somerville does not support his views. Supposedly this program is to benefit the poor rural Native Alaskans. Yet, said Mr. Jans, he has never heard any Eskimos say they could not get a moose or caribou because of wolves. Rather, he related, they say it is because white airplane hunters from somewhere else got in the way. Rural residents are concerned about the wealthy outside sport hunters who arrive in their own personal airplanes to hunt. He is for predator control, he said, but it should be done in a science-based manner by the experts. It should not be at the behest of political appointees, and HB 256 gives a lot of discretionary power to political appointees who do not represent all of the people of Alaska.

2:19:40 PM

CO-CHAIR GATTO asked whether predator control could include removing outside airplane hunters who come to hunt in an area where they do not live.

MR. JANS said he is sure there would be rural residents who would make that argument. However, it is state land and it is legal; sport hunting and subsistence can co-exist in certain areas if they are well managed. This hearing is not a general stump speech for or against predator control, he said, it is about what HB 256 would do. The bill gives too much discretionary power to a group of political appointees who are charged with representing all the people of Alaska whom they do not represent. For instance, these political appointees do not represent the 56,000 registered voters who signed the petition for the last ballot initiative.

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CO-CHAIR GATTO said the legislature approves the political appointees to the Board of Game. Thus, in all fairness, the blame should be shared by the legislature.

MR. JANS allowed that it is hard to get rural residents to do something like being on the Board of Game. What the people he knows care about, he related, is whether or not they see animals when they go out. They are voting residents of the state on whom outsiders' views are imposed. He acknowledged that he is an outsider, but that he can report what he hears being said.

[2:23:37 PM](#)

MR. JANS continued his testimony. He said the maximum use consistent with the public interest is a curious and bothersome phrase to him. He asked, "If all Alaskans ... are represented here, what about the nonconsumptive user which does not include me?" All Alaskans should be represented by the intent of HB 258. In a democracy where all people are represented there would be a management plan that represents everyone, he opined. In an ideal world wildlife management would be based only on science, but instead it is highly politicized and predator control even more so. Scientists can disagree with each other, he said, and the National Academy of Sciences disagrees with Alaska's predator control program.

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CO-CHAIR GATTO inquired whether there is an inherent conflict between users and nonconsumptive users.

MR. JANS answered that he thinks there can be. Management must be for both because everyone is part of the deal, he said, and there must be management for rural preference. "If we are going to give all this lip service to the poor people of rural Alaska who can't get ... their moose or caribou, why ... aren't we managing it for them first and foremost all the time." he asked. In further response to Co-Chair Gatto, Mr. Jans confirmed that he believes in rural preference because he has lived with people who walk the walk - what is on the table is whatever animal was around. He reiterated that he supports science-based predator management, not management by a committee that can override, and has overridden, the recommendations of the Alaska Department of Fish & Game's scientists. He said controversy among scientists is a red flag to him, such as when hundreds of very well respected scientists are critiquing Alaska's predator control program. Additionally, the Alaska Department of Fish & Game has been stripped to the bone and there is no enforcement out there.

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ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), stated that he has been in the hunting guide business for the last 40 years. He informed the committee that the Alaska Outdoor Council has 2,876 current paying members, a database of about 4,000 people, and is an umbrella organization for 47 clubs. So, he said, he is easily representing close to 7,000 Alaskans who choose to harvest a wild food source. The important thing about [HB 256] is who it is benefitting. The point of the intensive management law was to provide active management of populations with a long history of human use so their numbers would be the same as in the past, he related. About 25,000 caribou and about 7,000 moose are taken annually by people in Alaska. At 500 pounds of meat per moose and 150 pounds per caribou, that is over 7 million pounds of wild food per year. Sixty percent of the state will never have any predator control. More than 85,000 people purchase a hunting license and feed their families, he said, and that is the reason the Alaska Outdoor Council worked so hard to get the intensive management law passed in the first place.

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MR. ARNO submitted that both the Alaska Department of Fish & Game and the Board of Game used an incredible amount of

scientific information gathered by the department to implement predator control in the five areas. The department will still have its same authority and same mission statement under HB 256, he maintained. Turn around is just starting to be seen in Game Management Unit 13, so predator control does work. He said that when he first started guiding in Game Management Unit 16B in 1970 there were 10,000 moose. Now there are less than 3,000 and the harvest has dropped from 500 to 160. It is the same thing for Game Management Unit 13 where 1,000 moose a year used to be taken and now it is down to 300. [The predator control areas] encompass less than 10 percent of the state, so saying that the state is headed towards game farming is far from the truth, he opined. The Alaska Outdoor Council recommends the committee pass HB 256.

MR. ARNO, in response to Co-Chair Gatto, said he has been the AOC executive director for the last four years, its president for nine years, and a lobbyist for two years. In further response to Co-Chair Gatto, Mr. Arno confirmed he has been involved in both fish and game issues as well as access to public lands.

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REPRESENTATIVE SEATON asked what criteria someone submitting a proposal to the Board of Game would expect the board to follow to determine whether to adopt or reject the proposal in regard to achieving a high probability of success for human harvest as directed on page 2, line 29, of the bill.

MR. ARNO replied the Board of Game went through a long process to arrive at the current harvest objectives that are deemed sustainable for the game management units. He said the board considered the carrying capacity and the previous harvest records. A population at half the carrying capacity is considered the most productive, he noted. Based on the aforementioned information, the Alaska Department of Fish & Game and various hunting organizations and individuals submitted what they believed the harvest objectives should be. He said some people believe the current harvest objectives are too high and some believe they are too low. Areas that can be accessed easily will have a higher success rate, he noted. Right now about 30,000 people a year report getting a moose tag and 7,000 moose are taken. So the state is at 30 percent, the success rate that is typically sought, he said.

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REPRESENTATIVE SEATON said his concern is that HB 256 would not just set a harvest objective. It would set a new standard of a high probability of success that will drive the Board of Game's decisions, and whenever this standard is not achieved more will have to be done, whether it is habitat manipulation, predator control, or something else.

MR. ARNO responded he does not think that is a new criteria. It is the same process that was used for each of the five [current predator control] areas. If 30 percent of the hunters are not getting a moose, that does not mean going in and burning down the area to rebuild the habitat, he said. Each one of those different factors that can be done in active management is, and has been, discussed. "We've looked at quite a few of the implementation plans that have gone through their five-year cycle, and then now every year there has to be a report back on them. There [have] been incremental changes - 16B is an example of that where they were not seeing a recovery in that population so they added bear control to that." In none of those cases is it saying that if the 30 percent success rate is not achieved by the hunters choosing to hunt in an area that it will go to additional levels, he maintained. The biology of it has been tied more to factors used by the Alaska Department of Fish & Game such as cow-to-bull ratios and calf survival rate - a two percent survival rate of calves means there is no recruitment. Those have been the triggers that have stepped up the active management in the past, he related, not that the success ratio was less than 30 percent.

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JOE KLUTSCH, President, Alaska Professional Hunters Association, spoke on behalf of himself and the hunting guides belonging to his organization. He said he has spent nearly 40 years living in rural Alaska and has hunted and been a big game guide throughout the state. Mr. Klutsch spoke from the following written testimony (original punctuation provided):

There is a great hunting tradition in our state, as stated in the [Alaska Department of Fish & Game] publication Predation Management in Alaska. "It is integral to lifestyles, traditional cultures, the economy and basic food needs for many Alaskan families." I will add that many of those families are guiding families who share substantial amounts of meat

with people who would otherwise not have access to wild game.

The issue at hand is the dwindling numbers of moose, caribou, Dall sheep and other ungulate species that has occurred over the last 15 years. Most of these declines can be directly attributable to ever increasing number of predators—particularly wolves—especially in western and south central Alaska. Historically active predator management resulted in higher numbers of game species allowing for sustainable long term use by hunters. Since the 1980's, efforts to manage predator numbers has been curtailed—the result being continuing loss of opportunity.

Opponents of this bill would like you to believe that no predator control efforts should be undertaken until a threshold of "biological emergency." This is simply unacceptable. It intentionally ignores the fact that at that point in the allocation equation non-resident and general resident seasons are closed and in most cases subsistence seasons are curtailed to Tier I or Tier II where there are not enough animals to allow for sustainable harvest. Allowing this to occur, we will find many of our game species in the proverbial predator pit where recovery may take decades. We have a constitutional and even moral obligation not to allow this to happen.

Nothing in this legislation spells doom for predators. To the contrary it gives ADF&G and the Alaska Board of Game (with thorough public input from all effected parties) the ability to authorize and undertake properly justified and measured predator management programs. It allows us to act before we find ourselves in a management crises. Acting only in the case of a biological emergency is acting too late.

Failure to actively manage predator species, particularly wolves is and will continue to have a devastating effect on all Alaskan[s] who rely on prey species.

In conclusion:

I urge you to do what is right and move this legislation on to passage.

MR. KLUTSCH disagreed with a previous speaker's statement that the Board of Game is unresponsive to rural residents. Previous controversies over fish and game show there are times when not everyone gets what he or she wants, he said. The Board of Fisheries, Board of Game, and Alaska Department of Fish & Game have been incredibly responsive and willing to listen, and have tried to accommodate the Alaska Professional Hunters Association where possible.

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WADE WILLIS stated he is disappointed at the amount of frivolous testimony allowed by the committee in order to squeeze the rest of the witnesses out. He is a 20-year Alaska resident and a biologist formerly with the Alaska Department of Fish & Game and he strongly opposed HB 256, he said. Representatives from the Department of Law and the Alaska Department of Fish & Game testified that they are cleaning and clearing up the language, but not once have they also made it clear that they are removing the words, "based on scientific information". Why would they completely omit that, he asked. Why get rid of all the scientific information being talked about and not replace it?

MR. WILLIS spoke to an earlier statement regarding the killing of coyotes in the Lower 48. He said this issue is not getting the wrath of the scientific community because it is probably based on science and private citizens are not doing the killing - and that is why Alaska is getting pegged. That is why 57,000 Alaskan residents signed the last petition to tell the legislature for the third time that aerial wolf hunting by private citizens is not acceptable. Eighty-five percent of the public in Alaska does not hunt, he related. Even though he is a hunter, he said, what scares him is the amount of bullets the Board of Game is putting into the non-hunting community. If anything is ruining his ability to go out and get a moose, he said, it is the Board of Game ignoring the strongly stated position of Alaskans for the third time.

MR. WILLIS addressed the recruitment of rural Alaskans to the Board of Game. He noted that Governor Palin is replacing a rural Native Alaskan on the board with the past president of the Alaska Outdoor Council, and Mr. Somerville is being replaced by Governor Palin's high school basketball coach. This is not good representation, it is monopolization by independent user groups. He said his own hunting rights cannot be protected by ignoring the vast majority of Alaska's residents.

MR. WILLIS pointed out that boat-based shooting of wildlife by shotgun or scatter gun is illegal in Alaska. This prohibition is because animals cannot be efficiently dispatched from an unstable substrate and results in the harming and maiming of wildlife, he related, and a Cessna is every bit as unstable as a boat.

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CLIFF JUDKINS, Chair, Board of Game, told the committee that Mr. Somerville and the staff said most of what needed to be said. He noted that he is a 45-year Alaska resident, has fished and hunted from Craig to the North Slope, and has a Bachelors of Science in wildlife biology. He said he has spent 15-20 years following wildlife management through the state's 85 advisory committees. All of the advisory committees have testified before the Board of Game in support of predator control programs and have asked for more, he related. Even when there is contention with the board about other issues, communities end their testimony by thanking the board for predator control and requesting it not be stopped. He said the board will continue to make decisions based on scientific input from the staff because that is the way it is done. When the public comes to the board asking for predator control, [Alaska Department of Fish & Game] staff is asked to make recommendations, he explained. Usually, staff will be asked to conduct research to determine the real cause of population declines in that area. If staff determines it is a predator problem, then the Board of Game will look at implementing a predator control plan. This is a two year process, he said. He added that the court process is a difficult situation as far as determining what is an emergency and when should action be taken. This bill will simplify that process, he opined, and clarify it to the judges and the public and thus be beneficial to the program. He urged the committee to support HB 256.

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PATRICIA CUE stated she has lived in Alaska since 1989. She asked the committee to oppose HB 256. She specified:

In 1996, 60 percent of Alaskans voted to ban same day airborne hunting. In 1998, a statewide poll indicated 70 percent of Alaskan voters were opposed to repealing the ban, and in 2000 Alaskans voted to reinstate the ban on same day aerial wolf hunting by a margin of 54-

46 percent. As you can see by these statistics, the citizens of the state of Alaska are opposed to this practice. Yet, Governor Palin and other state officials, including the Board of Game, continue to pursue same day aerial hunting as a form of predator control. According to HB 256 the Board of Game must adopt a predatory control program before reducing hunting of an identifiable wildlife population unless there are findings or an emergency action which is deemed unworkable. The only part of the process that is so unworkable is the conclusion that predation by wolf, bears, wolverines, or other species is the result of poor game numbers. In many instances, the real reason is that these areas are under-regulated by state officials and over-hunted by residents and visitors. The governor's office must have hired a spin director to reword the terminology in this legislation. For example, HB 256 wants to replace intensive management and predator control with a term active management. This bill does not in any way reflect a broad-based action plan for improving game numbers. The scenario being proposed is predator control using big game guides to reduce predator numbers to purportedly increase game populations. Another piece of this legislation allows for the open-ended harvest of Alaska's game. The reference is to providing for a high level of human harvest including all hunter demand. This all hunter demand is endless and it is this endless demand that has resulted in the loss of game. Game management in this state is not working and HB 256 is not the answer. Active game management is a multi-faceted approach including improved oversight of hunting, reduced wanton waste of resources, and an understanding that this resource does not belong to one person or one group. We need leadership on game management and Governor Palin and the Board of Game do not provide the state with a long-term vision or a way to sustainably manage our precious wildlife. Please vote against HB 256.

[3:00:15 PM](#)

DAVID OTNESS thanked the committee for taking up HB 256. He said he is hearing a significant amount of noise from opponents of predator control that needs to be backed up with data. He questions the great number of scientists outside of Alaska who do not believe in the state's data collection and policies

because those scientists and their own personal biases are not identified. A scientist is not necessarily the paradigm of morality when it comes to issues near and dear to his particular outlook, he argued. As a 57-year resident of Alaska who has hunted all of his life, he said he doubted that the people signing the petitions at Wal-Mart in Anchorage had ever seen Bush Alaska. Yes, he said, their signatures count as much as anyone else's, but as nonusers of the resource they do not count morally. The people moving into the state do not have the traditional values.

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YOLANDA DE LA CRUZ urged the committee to reject HB 256 because it is disgusting and the governor needs to listen to Alaskans. If the governor cares about Native people, then why are there no Native representatives on the Board of Game, she asked.

[HB 256 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:05 p.m.