

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

May 7, 2007

4:07 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator Lyda Green
Senator Gary Stevens
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Bert Stedman, Vice Chair

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 87(FIN) am
"An Act relating to the Citizens' Advisory Commission on Federal Management Areas in Alaska; and providing for an effective date."

MOVED CSHB 87(FIN)am OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 220(JUD)
"An Act prohibiting computer-assisted remote hunting."

MOVED CSHB 220(JUD) OUT OF COMMITTEE

SENATE BILL NO. 57

"An Act relating to hunting in marine park units of the Alaska state park system, amending the area within designated marine park units of the Alaska state park system, and adding marine park units to the Alaska state park system."

MOVED CSSB 57(RES) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 4

Urging the attorney general, the producers of natural gas in the Cook Inlet region, and the Regulatory Commission of Alaska to work to secure long-term and affordable supplies of natural gas for the people and businesses of the state.

MOVED CSSJR 4(RES) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 4(RLS)

Requesting the Federal Subsistence Board to rescind its decisions regarding the subsistence fishery priority given to Ninilchik, Happy Valley, Hope, and Cooper Landing residents.

MOVED SCS CSHJR 4(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 87

SHORT TITLE: CITIZEN ADVISORY COMM ON FEDERAL AREAS

SPONSOR(S): REPRESENTATIVE(S) KELLY

01/16/07	(H)	PREFILE RELEASED 1/12/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	RES, FIN
01/24/07	(H)	RES AT 1:00 PM CAPITOL 124
01/24/07	(H)	Heard & Held
01/24/07	(H)	MINUTE(RES)
01/31/07	(H)	RES AT 1:00 PM CAPITOL 124
01/31/07	(H)	Moved CSHB 87(RES) Out of Committee
01/31/07	(H)	MINUTE(RES)
02/01/07	(H)	RES RPT CS(RES) NT 5NR 1AM
02/01/07	(H)	NR: KAWASAKI, ROSES, EDGMON, GATTO, JOHNSON
02/01/07	(H)	AM: WILSON
02/07/07	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/07/07	(H)	Heard & Held
02/07/07	(H)	MINUTE(FIN)
04/10/07	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/10/07	(H)	Moved CSHB 87(FIN) Out of Committee
04/10/07	(H)	MINUTE(FIN)
04/13/07	(H)	FIN RPT CS(FIN) NT 4DP 5NR
04/13/07	(H)	DP: CRAWFORD, FOSTER, STOLTZE, KELLY
04/13/07	(H)	NR: GARA, NELSON, HAWKER, THOMAS, MEYER
04/18/07	(H)	RLS AT 5:00 PM CAPITOL 106
04/18/07	(H)	Moved CSHB 87(FIN) Out of Committee
04/18/07	(H)	MINUTE(RLS)
04/19/07	(H)	RLS RPT CS(FIN) NT 2DP 2NR
04/19/07	(H)	DP: FAIRCLOUGH, COGHILL
04/19/07	(H)	NR: HARRIS, JOHNSON
04/19/07	(H)	RETURNED TO RLS COMMITTEE
05/02/07	(H)	TRANSMITTED TO (S)
05/02/07	(H)	VERSION: CSHB 87(FIN) AM
05/03/07	(S)	READ THE FIRST TIME - REFERRALS
05/03/07	(S)	RES, FIN
05/07/07	(S)	RES AT 4:00 PM BUTROVICH 205

BILL: HB 220

SHORT TITLE: BAN COMPUTER-ASSISTED REMOTE HUNTING
SPONSOR(s): REPRESENTATIVE(s) BUCH

03/26/07 (H) READ THE FIRST TIME - REFERRALS
03/26/07 (H) RES, JUD, FIN
04/02/07 (H) RES AT 1:00 PM BARNES 124
04/02/07 (H) Moved CSHB 220(RES) Out of Committee
04/02/07 (H) MINUTE(RES)
04/03/07 (H) RES RPT CS(RES) 6DP 3NR
04/03/07 (H) DP: ROSES, WILSON, GUTTENBERG, EDGMON,
SEATON, GATTO
04/03/07 (H) NR: KAWASAKI, KOHRING, JOHNSON
04/13/07 (H) JUD AT 1:00 PM CAPITOL 120
04/13/07 (H) Moved CSHB 220(JUD) Out of Committee
04/13/07 (H) MINUTE(JUD)
04/16/07 (H) JUD RPT CS(JUD) 5DP
04/16/07 (H) DP: GRUENBERG, LYNN, SAMUELS, HOLMES,
RAMRAS
04/18/07 (H) FIN REFERRAL WAIVED
04/20/07 (H) TRANSMITTED TO (S)
04/20/07 (H) VERSION: CSHB 220(JUD)
04/23/07 (S) READ THE FIRST TIME - REFERRALS
04/23/07 (S) RES
04/30/07 (S) RES AT 3:30 PM BUTROVICH 205
04/30/07 (S) Heard & Held
04/30/07 (S) MINUTE(RES)
05/02/07 (S) RES AT 3:30 PM BUTROVICH 205
05/02/07 (S) -- MEETING CANCELED --
05/07/07 (S) RES AT 4:00 PM BUTROVICH 205

BILL: SB 57

SHORT TITLE: MARINE PARKS ADDITIONS/HUNTING ALLOWED
SPONSOR(s): SENATOR(s) ELTON

01/19/07 (S) READ THE FIRST TIME - REFERRALS
01/19/07 (S) RES, FIN
04/27/07 (S) RES AT 3:30 PM BUTROVICH 205
04/27/07 (S) Heard & Held
04/27/07 (S) MINUTE(RES)
05/02/07 (S) RES AT 3:30 PM BUTROVICH 205
05/02/07 (S) -- MEETING CANCELED --
05/07/07 (S) RES AT 4:00 PM BUTROVICH 205

BILL: SJR 4

SHORT TITLE: NATURAL GAS FOR STATE RESIDENTS
SPONSOR(s): SENATOR(s) WIELECHOWSKI

03/12/07 (S) READ THE FIRST TIME - REFERRALS
 03/12/07 (S) L&C, RES
 03/20/07 (S) L&C AT 1:30 PM BELTZ 211
 03/20/07 (S) Heard & Held
 03/20/07 (S) MINUTE(L&C)
 03/22/07 (S) L&C AT 1:30 PM BELTZ 211
 03/22/07 (S) Moved CSSJR 4(L&C) Out of Committee
 03/22/07 (S) MINUTE(L&C)
 03/23/07 (S) L&C RPT CS 2DP 1DNP 1NR SAME TITLE
 03/23/07 (S) DP: ELLIS, DAVIS
 03/23/07 (S) DNP: BUNDE
 03/23/07 (S) NR: STEVENS
 04/20/07 (S) RES AT 3:30 PM BUTROVICH 205
 04/20/07 (S) <Above Bill Hearing Canceled>
 04/25/07 (S) RES AT 3:30 PM BUTROVICH 205
 04/25/07 (S) -- MEETING CANCELED --
 04/27/07 (S) RES AT 3:30 PM BUTROVICH 205
 04/27/07 (S) Heard & Held
 04/27/07 (S) MINUTE(RES)
 05/02/07 (S) RES AT 3:30 PM BUTROVICH 205
 05/02/07 (S) -- MEETING CANCELED --
 05/07/07 (S) RES AT 4:00 PM BUTROVICH 205

BILL: HJR 4

SHORT TITLE: KENAI/KASILOF SUBSISTENCE PRIORITY

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/16/07 (H) READ THE FIRST TIME - REFERRALS
 01/16/07 (H) FSH, RES
 02/23/07 (H) FSH AT 8:30 AM CAPITOL 124
 02/23/07 (H) Scheduled But Not Heard
 02/26/07 (H) FSH AT 8:30 AM BARNES 124
 02/26/07 (H) Heard & Held
 02/26/07 (H) MINUTE(FSH)
 03/02/07 (H) FSH AT 8:30 AM BARNES 124
 03/02/07 (H) Moved CSHJR 4(FSH) Out of Committee
 03/02/07 (H) MINUTE(FSH)
 03/05/07 (H) FSH RPT CS(FSH) NT 3DP 1NR
 03/05/07 (H) DP: JOHNSON, EDGMON, SEATON
 03/05/07 (H) NR: LEDOUX
 03/28/07 (H) RES AT 1:00 PM BARNES 124
 03/28/07 (H) Scheduled But Not Heard
 04/02/07 (H) RES AT 1:00 PM BARNES 124
 04/02/07 (H) Heard & Held
 04/02/07 (H) MINUTE(RES)
 04/04/07 (H) RES AT 1:00 PM BARNES 124
 04/04/07 (H) Moved CSHJR 4(FSH) Out of Committee

04/04/07 (H) MINUTE(RES)
 04/05/07 (H) RES RPT CS(FSH) NT 5DP 1DNP
 04/05/07 (H) DP: ROSES, SEATON, KOHRING, GATTO,
 JOHNSON
 04/05/07 (H) DNP: GUTTENBERG
 04/16/07 (H) RETURNED TO RLS COMMITTEE
 04/25/07 (H) RLS AT 5:00 PM CAPITOL 106
 04/25/07 (H) Moved CSHJR 4(RLS) Out of Committee
 04/25/07 (H) MINUTE(RLS)
 04/26/07 (H) RLS RPT CS(RLS) NT 4DP 2NR
 04/26/07 (H) DP: FAIRCLOUGH, SAMUELS, JOHNSON,
 COGHILL
 04/26/07 (H) NR: HARRIS, GUTTENBERG
 04/27/07 (H) TRANSMITTED TO (S)
 04/27/07 (H) VERSION: CSHJR 4(RLS)
 04/30/07 (S) READ THE FIRST TIME - REFERRALS
 04/30/07 (S) RES
 05/02/07 (S) RES AT 3:30 PM BUTROVICH 205
 05/02/07 (S) -- MEETING CANCELED --
 05/07/07 (S) RES AT 4:00 PM BUTROVICH 205

WITNESS REGISTER

SUE STANCLIFF

Staff to Representative Mike Kelly
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Commented on CSHB 87(FIN)am for the sponsor.

REPRESENTATIVE MIKE KELLY

Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 87.

DICK MYLIUS, Director
 Division of Mining, Land and Water
 Department of Natural Resources (DNR)

POSITION STATEMENT: Supported CSHB 87(FIN)am.

TINA CUNNING, Special Assistant on federal issues
 Alaska Department of Fish and Game (ADF&G)
 Juneau AK

POSITION STATEMENT: Supported CSHB 87(FIN)am.

ROD ARNO
 Alaska Outdoor Council
 Anchorage AK

POSITION STATEMENT: Supported CSHB 87(FIN)am, CSHB 220(JUD), SB 57, HJR 4.

REPRESENTATIVE BOB BUCH
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 220.

JOE KLUTSCH
Alaska Professional Hunters Association
Anchorage AK

POSITION STATEMENT: Supported CSHB 220(JUD).

BOB FITHIAN, Executive Director
Alaska Professional Hunters Association

POSITION STATEMENT: Supported CSHB 220(JUD).

MATT ROBUS, Director
Division of Wildlife Conservation
Alaska Department of Fish and Game (ADF&G)
Juneau AK

POSITION STATEMENT: Supported CSHB 220(JUD).

SENATOR KIM ELTON
State Capitol
Juneau AK

POSITION STATEMENT: Sponsor of SB 57.

WAYNE REGELIN
Territorial Sportsmen, Inc. (TSI)
Juneau AK

POSITION STATEMENT: Strongly supported SB 57.

MIKE EBERHARDT, Superintendent of Southeast Area
Division of Parks and Recreation
Department of Natural Resources (DNR)
Juneau AK

POSITION STATEMENT: Answered questions on SB 57.

KEVIN BANKS, Acting Director
Division of Oil and Gas
Department of Natural Resources (DNR)
Juneau AK

POSITION STATEMENT: Supported SJR 4.

CONRAD JACKSON
Staff to Representative Kurt Olson

Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HJR 4 for the sponsor.

MIKE SEWRIGHT, Assistant Attorney General
Department of Law
Anchorage AK

POSITION STATEMENT: Answered questions on HJR 4.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [4:07:16 PM](#). Present at the call to order were Senators Wagoner, Wielechowski, McGuire, Green, Stevens and Huggins.

CSHB 87(FIN)am-CITIZEN ADVISORY COMM ON FEDERAL AREAS

[4:07:58 PM](#)

CHAIR HUGGINS announced HB 87 to be up for consideration. [Before the committee was CSHB 87(FIN)am.]

SUE STANCLIFF, staff to Representative Mike Kelly, sponsor of HB 87, explained that this is a bill about public access on federal lands. She explained that the Citizen's Advisory Commission on Federal Areas was established previously in 1981 and this legislation reestablishes it.

[4:08:53 PM](#)

REPRESENTATIVE MIKE KELLY explained that the Citizens Advisory Commission on Federal Areas was started by Bettye Fahrenkamp in 1981 and it worked very well. It went away when oil was around \$9 a barrel. Its mission is to provide assistance to the public affected by management on federal lands. The State of Alaska has 200 million to 230 million acres of this land.

CHAIR HUGGINS asked if there were natural enemies to this bill.

MS. STANCLIFF replied that none had been identified.

REPRESENTATIVE KELLY replied there were some concerns about regional representation, but those were taken care of by putting someone from each of the five regions on the commission. There was also concern about its size, so membership was cut from 16 to 12 members. There were also concerns about keeping the fiscal

note down and office staff was decreased from 3 to 2 in that regard. It's now a good bill.

4:11:00 PM

MS. STANCLIFF highlighted that this was a problem-solving commission. She explained that ANILCA coordinators in both the ADF&G and DNR represent the state's best interest, but this commission was in charge of representing the citizens and when it went away, citizens had minimal choices. Going to the legislature was one choice, but it has limited expertise in federal statutes, regulations and intent of congressional law. People could go to the congressional delegation and to the Secretary of the Interior, which they have also done, but those possibilities can't be counted on because of changing administrations.

4:13:25 PM

She said that even lands with no specific statutory conservation restrictions are subject to steadily increasing administrative designations and withdrawals that can result in reductions of public uses. Those are just as prevalent today as they were 10 and 20 years ago. A state that has the massive federal land that Alaska does needs this process.

MS. STANCLIFF said the commission was effective, for instance, in developing the Kodiak plan that allowed cabins to remain on the Refuge. Federal managers have a history of wanting to eliminate trapping cabins, but the commission worked with the trappers and they are now protected under ANILCA. The commission was also effective in getting ANILCA boundaries actually mapped.

She said the Minerals Commission, the Fairbanks North Star Borough, Alaska Miners Association, Kenai River Sport Fishing Association and the Outdoor Council all support this legislation.

4:14:49 PM

SENATOR WIELECHOWSKI said the fiscal note seemed big for an advisory commission and he asked if some of the duties could be performed by DNR staff.

MS. STANCLIFF replied that the DNR is already providing mapping, office space, computer assistance, and the commission only needs two staff people. The fiscal note includes a little more for the first year to get them set up.

SENATOR WIELECHOWSKI asked how much per diem people get.

MS. STANCLIFF replied the standard per diem rate and she didn't know what that was.

CHAIR HUGGINS said this bill goes to the Finance Committee where that issue could be dealt with. He pointed out that the number of people on the commission went from 16 to 12 and their geographical distribution makes sense.

[4:16:56 PM](#)

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), supported HB 87. He said the department is not in a position to advocate for individuals, which this commission does. He said that DNR has one full-time person that works on federal land use plans. Just keeping up with planning and regulations is more than enough work for him, so he is not able to take on the additional commission responsibilities.

[4:18:23 PM](#)

TINA CUNNING, Special Assistant to the Commissioner on federal issues, Alaska Department of Fish and Game (ADF&G), supported HB 87. She said that ADF&G has two people who work on federal issues and their primary focus is protecting state authorities on management of fish and game. She also said the department doesn't have the staff to deal with individual issues.

ROD ARNO, Alaska Outdoor Council, said he supported CSHB 87 (FIN) am.

[4:20:30 PM](#)

SENATOR STEVENS moved to pass CSHB 87(FIN) am from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

CSHB 220(JUD)-BAN COMPUTER-ASSISTED REMOTE HUNTING

[4:21:48 PM](#)

CHAIR HUGGINS announced to be up for consideration. [CSHB 220(JUD) was before the committee.]

REPRESENTATIVE BOB BUCH, sponsor of HB 220, said this bill talks about Internet hunting, which is when a people anywhere in the world can shoot animals from their living rooms by aiming and firing a rifle from a computer keypad and making the kill with a click of a mouse.

This bill does three things. It would prohibit individuals from engaging in Internet hunting in Alaska, it would prohibit anyone from providing services or operating facilities in the state to enable computerized hunting activities, and finally it would make sure that future technology designed to assist the legitimate needs of handicapped or disabled hunters out in the woods would not be subject the ban otherwise created in this bill.

REPRESENTATIVE BUCH said HB 220 has a broad spectrum of support including the Humane Society, the National Rifle Association (NRA), the Society for Prevention of Cruelty to Animals (SPCA), hunting organizations and the Alaska Department of Fish and Game (ADF&G). One person in this building had objections [he indicated Senator Wielechowski].

4:23:31 PM

SENATOR WAGONER asked if he were a rancher with his own herd of buffalo, why wouldn't he be able to hunt like that. He said most of the instances they are talking about occur on private land, but with resources that are owned by the state.

REPRESENTATIVE BUCH answered:

We object to the fact that they are using it through the Internet; that they're using a technology and our objection is that they are not doing it in person and care-taking for that critter, whatever that critter is. There is a certain relevance there to that animal. And it is a complete disregard to that animal and to those of us who participate in the fair chase sport of hunting.

JOE KLUTSCH, Alaska Professional Hunters Association, supported HB 220. He said using the Internet it is not hunting. His members are committed to fair chase hunting practices and ethical standards of conduct. He stated:

The organization of killing animals by cyberspace and robotics is not hunting. True hunting is a problem solving exercise that involves planning, knowledge of the species being pursued, its habitat. The hunter has to be prepared to cope with all the elements in nature, and particularly in Alaska. It involves real-life drama that involves doubt, frustration, anxiety, discovery, great physical and mental challenge, joy

and disappointment. And the outcome of the process is by no means assured. That's what fair chase hunting is.

MR. KLUTSCH said this bill follows the lead of many other states.

4:27:01 PM

ROD ARNO, Alaska Outdoor Council, supported HB 220. He pointed out that advertisements for Internet hunting say it can save you days in the field, but that is just what the Council is advocating - days in the field.

4:27:24 PM

BOB FITHIAN, Executive Director, Alaska Professional Hunter's Association, deferred to Mr. Klutsch's testimony and followed with a few other comments. He supported HB 220 saying that it seeks to stop hunting that doesn't have any concept of fair chase, wilderness lore, or stewardship and develops unneeded anti-hunting sentiment.

SENATOR STEVENS asked Representative Buch to explain line 10.

REPRESENTATIVE BUCH answered that organizations like the "Make a Wish Foundation" provide a final wish for disabled people who are dying and he wasn't going to create a ban on technologies that assist those people.

4:29:21 PM

MATT ROBUS, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), said that the department supported the bill and that the House amended it to deal with his concern. At first it couldn't have possibly been interpreted to allow somebody to remain at their residence and use this technology in order to take an animal if they had disabilities.

He said the department has a very long and successful history of accommodating persons with disabilities to allow equal access to the extent possible to hunting opportunity. In fact, the Board of Game has delegated through regulation to the division the job of granting methods and means and exemptions to allow somebody with a disability to use a method not used under the normal hunting regulations. This has been backed up by the state ADA coordinator in that the person in that situation has always been required to make some sort of active attempt to go to the field and participate in the taking of the animal. The bill still

requires the person with a disability to be present in the field making a meaningful attempt to participate in the hunt.

SENATOR STEVENS asked if this is a minimal issue.

MR. ROBUS replied yes and it would be applied on a case by case basis and be based on a person's ability to participate in a hunt.

[4:31:45 PM](#)

SENATOR STEVENS moved to pass CSHB 220(JUD) from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

SB 57-MARINE PARKS ADDITIONS/HUNTING ALLOWED

[4:32:35 PM](#)

CHAIR HUGGINS announced SB 57 to be up for consideration.

SENATOR ELTON, sponsor of SB 57, said he would speak to version K and that there were two changes in it. One is substantive and the other is technical. Section 2 in the previous version included redundant language, providing for a restriction to the Department of Fish and Game that was already in statute. The substantive change was the result of changing the boundary for the marine parks to the 10 fathoms from 20 fathoms. The 10 fathom boundary is good for the park system and especially for those who are using it because the 10 fathom line is what is delineated on the marine charts that people use in navigating these areas.

This bill is supported by the business community and the Territorial Sportsmen, which is Southeast Alaska's premier group that represents both sport hunters and sport fishers. It is also supported by the only in-holder in the Marine Park System. He has heard of no opposition to the bill.

CHAIR HUGGINS moved to adopt version K as a working document. There were no objections.

[4:36:15 PM](#)

WAYNE REGELIN, Territorial Sportsmen, Inc. (TSI), strongly supported SB 57. He said it contains important language that assures that hunting, fishing, and trapping can continue. TSI has a very close working relationship with the Marine Parks people in Southeast Alaska and its volunteers have built four public use cabins on marine parks. Costs get reduced further

through business donations and limited support comes from legislative appropriations. In addition to recreational uses, these cabins serve as emergency use for all recreational and commercial boaters. The user fees cover the four cabins' maintenance costs and since TSI does most of the maintenance voluntarily he thought expansion of the marine park system would provide more places for them to build public use cabins and continue this program.

[4:38:28 PM](#)

SENATOR WAGONER asked if the 10-fathom requirement in Kachemak Bay Marine Park was different.

MR. REGELIN replied that he didn't know what the boundaries are there, but it's a much different program, not a state park.

SENATOR WAGONER said he was trying to figure out why the state in some cases didn't have a standard criterion like the 10-fathom line.

[4:39:56 PM](#)

ROD ARNO, Alaska Outdoor Council, supported SB 57.

[4:40:55 PM](#)

MIKE EBERHARDT, Superintendent of Southeast Area, Division of Parks and Recreation, Department of Natural Resources (DNR), said the 10-fathom boundary is normally drawn through aliquot parks, which is the way large parcels of land are described in general. The 10-fathom line is fairly new in the marine park system because managing on waters is not the scope of his statutory authority.

[4:42:09 PM](#)

SENATOR WIELECHOWSKI wanted to clarify section 2 where it says the "commissioner may not prohibit fishing, hunting or trapping within a marine park unit." He asked if there is a crash in the moose population, could that resource still be protected.

MR. EBERHARDT replied yes and he would defer those situations to the ADF&G.

SENATOR GREEN asked if lines 6 and 7 of section 2 in version A that identify the commissioner of DNR were deleted since she didn't see it in version K.

SENATOR ELTON replied that section 2 in version K refers to the commissioner from DNR. A previous version had language that

addressed the ADF&G. That was taken out because it was already covered in another part of AS 10.41.

[4:43:50 PM](#)

GARY MILLER, Juneau State Parks Advisory Board, supported SB 57. He said the Board asked that this legislation be introduced because of the issues already discussed. He explained that at one time, Shelter Island was owned entirely by the State of Alaska. The Division of Mining, Land and Water, which currently manages the land, divided part of the island up and sold it and now it has 152 private lots. He would be trespassing if he hunted, camped, or picnicked on these lands. He said that both Lincoln and Shelter Islands have good deer hunting and he has hunted there for years. SB 57 will keep these lands open so he could continue to hunt there.

[4:44:57 PM](#)

SENATOR STEVENS moved to pass CS for SB 57, version K, from committee with individual recommendations and the attached fiscal note. There were no objections CSSB 57(RES) moved from committee.

SJR 4-NATURAL GAS FOR STATE RESIDENTS

[4:45:38 PM](#)

CHAIR HUGGINS announced SJR 4 to be up for consideration.

SENATOR WIELECHOWSKI, sponsor of SJR 4, said he presented this bill a week or so ago and Senator Wagoner raised a concern and prepared an amendment to address it, which he didn't object to.

[4:46:17 PM](#)

SENATOR WAGONER moved Amendment 1 as follows: on page 2, line 14, following "economy" to delete "employs approximately 58 residents," and to insert "directly and indirectly employs many Alaskans,"

SENATOR WAGONER then objected for an explanation. He said that originally the sponsor used 58 residents, which is just about right for the Phillips side of it. But this is not just about a ConocoPhillips plant, it is about a ConocoPhillips/Marathon plant and affects many more jobs including pipeline operations, the drilling of wells, and the operation of the Kenai and Swanson River gas fields than just the original 58 mentioned. He then withdrew his objection.

CHAIR HUGGINS found no further objections and Amendment 1 was adopted.

[4:47:25 PM](#)

KEVIN BANKS, Acting Director, Division of Oil and Gas, Department of Natural Resources (DNR), supported SJR 4. He said it would positively contribute to discussions in Washington D.C. about authorizing the license for the LNG plant.

[4:48:11 PM](#)

SENATOR STEVENS moved to pass CS for SJR 4 from committee with individual recommendations and attached fiscal note. There were no objections and CSSJR 4(RES) moved from committee.

CSHJR 4(RLS)-KENAI/KASILOF SUBSISTENCE PRIORITY

[4:49:43 PM](#)

CHAIR HUGGINS announced HJR 4 to be up for consideration. [CSHJR 4(RLS) was before the committee.]

CONRAD JACKSON, staff to Representative Kurt Olson, sponsor of HJR 4, said it had been amended to ask the Federal Subsistence Board to rescind its recent customary and traditional use determination that grants subsistence priority for four communities on the Kenai Peninsula - Ninilchik, Hope, Cooper Landing, and Happy Valley. He said an amendment would be offered and the sponsor did not object.

MR. JACKSON explained that at this point the Federal Subsistence Board has ruled against the state on its request for reconsideration.

CHAIR HUGGINS asked if there was any resistance.

MR. CONRAD replied that resistance has come from the Ninilchik Tribal Council.

[4:50:44 PM](#)

TINA CUNNING, special assistant to the Commissioner of Alaska Department of Fish and Game (ADF&G) on subsistence and federal issues, supported CSHJR 4(RLS). She explained that the State of Alaska was deeply troubled by the recent Federal Subsistence Board decision on the Kenai Peninsula to grant the communities of Ninilchik, Happy Valley, Hope and Cooper Landing a subsistence priority in the Kenai and Kasilof River drainages. She said the state has filed several requests for reconsideration over the last year, most recently in January and

it was heard again last week. HJR 4 is consistent with the state's various appeals.

MS. CUNNING explained:

Under state law these communities are regarded as non-rural in nature and are part of the Anchorage/Mat-Su, Kenai non-subsistence area. The Federal Board regarded these communities as rural even though they are surrounded by non-rural communities and it found that they have a customary and traditional use of the Kenai and Kasilof River drainages.

The state argues that the board did not base its decisions on evidence that fulfills the eight criteria required by federal regulations for making such customary and traditional use determinations. For example, the regulations require demonstration of a long-term customary and traditional pattern of consistent use by a community of the fish resource on federal land. Instead, the board ignored and misused the available data indicating that at most a very small percentage - up to 7 percent - of Ninilchik residents had fished in the area of the proposed subsistence fishery in the study year. The data did not demonstrate that required long-term pattern of community use.

The board also neglected to take several factors into consideration such as the changing demographics of Ninilchik, the impact that Ninilchik's connection to the available road system has on use levels and the type of use - such as sport fishing, Ninilchik's access to and more common use of local fisheries on their doorstep, historical tribal use areas, which do not include the Upper Kenai River area, and the purposes of Kenai Refuge.

Considered collectively, these factors do not appear to support a long-term consistent pattern of community use. The state is concerned that the Cook Inlet fisheries are already fully allocated and the board's decision will eventually result in unnecessary restriction of existing established uses, such as commercial, sport, and personal use fishing. The state is also concerned that the Federal Board does not consistently apply the eight criteria with the

substantial evidence required by regulation before making its C&T determination, does not consider impacts of its decisions on other beneficial uses as required by the Ninth Circuit Court decision in 2000, has not adopted an applied criteria in regulations that require substantial evidence before implementing restrictions on closures on state-authorized fisheries.

This issue before us is not about putting food on the table; the state provides substantial opportunity for personal and family consumption through personal use fisheries and for cultural and educational purposes through our educational fishery permits, which also provide for consumption. The amounts of fish allowed to be taken under the state fisheries far exceed the numbers actually taken by the residents of Hope, Cooper Landing, and Ninilchik.

[4:54:19 PM](#)

SENATOR WAGONER asked if - due to the federal board's blatant disregard for its own criteria - this would open up an avenue for the state to bring legal action against it.

MS. CUNNING answered that she believed so.

[4:54:48 PM](#)

MIKE SEWRIGHT, Assistant Attorney General, Department of Law, said he wondered if the question was in the context of suing the federal government for some type of damages or pursuing a court action to the effect that the customary and traditional use determinations are illegal and invalid.

SENATOR WAGONER said the reason he asked is that he thought the only community that really should have any subsistence claims is Ninilchik and more likely than not, probably just the Ninilchik Tribe. For instance, Hope was a community that was developed at the turn of the twentieth century as a gold mine town. Cooper Landing was developed far later than that as was Happy Valley. This is what happens when the federal government comes in and decides what is rural based on zip codes. He urged that the state bring legal action against the board.

[4:56:43 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council, supported HJR 4 saying he has been attending the federal board meetings for years and he was at the last one when it denied the state's

request for reconsideration. He also agreed that the board had been inconsistent in following its own regulations and the C&T regulations were just one example of that.

However, Mr. Arno said he thought HJR 4 would be strengthened by adding a clause that speaks to the intended use of the Kenai National Wildlife Refuge. This refuge was created by Congress and was renamed from the Kenai National Moose Range when ANILCA was passed. In ANILCA Congress established nine new refuges across the state and every one of them except the Kenai included in its purpose the priority for continued subsistence uses by local residents as a use. The one refuge that Congress didn't include was the Kenai Refuge and Congress did not treat the Kenai Refuge different by accident.

MR. ARNO said the questions on the purpose of the refuges were exhausted in (d)(2) debates in the late 1970s. A preponderance of the testimony then was the fact that these people recreated on the Kenai. With that in mind, while language for subsistence in the Kenai Refuge was purposely left out of section 303 (b)(5) of ANILCA, language listed as a use "the opportunities for fish and wildlife recreation." He explained:

That language was included, Mr. Chairman, because Congress recognized that while subsistence uses of local residents in the Kenai National Wildlife Refuge was no longer characteristic of the area or its people, recreational and personal use - taking of wild fish and game by all the residents, 470,000, was highly characteristic of the area. The Outdoor Council believes that providing that opportunity for 1,800 residents that qualify for that would be detrimental to Alaska....

[5:00:53 PM](#)

CHAIR HUGGINS moved Amendment 1.

25-LS0201\0.1

AMENDMENT 1

OFFERED IN THE SENATE

BY SENATOR HUGGINS

TO: CSHJR 4(RLS)

Page 1, line 15, following "priority;":

Insert "and

WHEREAS the United States Congress determined that, unlike purposes of other federal refuges established or expanded by the

Alaska National Interest Lands Conservation Act, the rural subsistence priority was not an appropriate purpose of the Kenai National Wildlife Refuge, and, therefore, purposefully omitted "continued subsistence uses by local rural residents" from the list of purposes of the Kenai National Wildlife Refuge; and

WHEREAS, unlike its determination of purposes for other federal refuges, the United States Congress chose to make fish- and wildlife-oriented recreational opportunities a purpose of the Kenai National Wildlife Refuge;"

CHAIR HUGGINS pointed out that Amendment 1 consists of two elements. The first part is that Congress expressly omitted continued subsistence uses by local rural residents on the Kenai Refuge and secondly, it chose to make fish and wildlife-oriented recreation opportunities a purpose of the Kenai National Wildlife Refuge.

There were no objections and Amendment 1 was adopted.

[5:01:45 PM](#)

SENATOR STEVENS moved to pass from committee CS for HJR 4, as amended, with individual recommendations and attached fiscal note. There were no objections and SCS CSHJR 4(RES) moved from committee.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [5:02:18 PM](#).