

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 2, 2012

1:08 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Alan Dick
Representative Neal Foster
Representative Bob Herron
Representative Cathy Engstrom Munoz
Representative Berta Gardner
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S):

Board of Game

Teresa Sager-Albaugh - Tok
Robert (Bob) Mumford - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE JOINT RESOLUTION NO. 40

Commending the governor and the administration for aggressively working to enforce the rights of the state in R.S. 2477 rights-of-way; urging the governor and the attorney general to develop a working alliance with other western states to protect and enforce appropriation request to fund an aggressive effort by the state to resolve issues relating to R.S. 2477 rights-of-way, including possible litigation, and to continue to work to preserve the rights of the state in regard to R.S. 2477 rights-of-way.

- MOVED CSHJR 40(RES) OUT OF COMMITTEE

HOUSE BILL NO. 356

"An Act relating to land management by the Board of Game and Department of Natural Resources for trapping and sport and subsistence hunting."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 40

SHORT TITLE: RS 2477 RIGHTS-OF-WAY

SPONSOR(S): REPRESENTATIVE(S) KELLER

02/22/12	(H)	READ THE FIRST TIME - REFERRALS
02/22/12	(H)	RES, JUD
03/26/12	(H)	RES AT 1:00 PM BARNES 124
03/26/12	(H)	Heard & Held
03/26/12	(H)	MINUTE(RES)
03/30/12	(H)	RES AT 1:00 PM BARNES 124
03/30/12	(H)	Heard & Held
03/30/12	(H)	MINUTE(RES)
04/02/12	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 356

SHORT TITLE: LAND MANAGEMENT:HUNTING/FISHING/TRAPPING

SPONSOR(S): REPRESENTATIVE(S) PRUITT

02/22/12	(H)	READ THE FIRST TIME - REFERRALS
02/22/12	(H)	RES
04/02/12	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

TERESA SAGER-ALBAUGH, Appointee

Board of Game

Alaska Department of Fish & Game (ADF&G)

Tok, Alaska

POSITION STATEMENT: Testified as appointee for reappointment to the Board of Game.

ROD ARNO, President

Alaska Outdoor Council (AOC)

Palmer, Alaska

POSITION STATEMENT: Supported the reappointment of Teresa Sager-Albaugh to the Board of Game.

MIKE CRAWFORD, President

Safari Club International - Kenai Chapter (SCI)

Soldotna, Alaska

POSITION STATEMENT: Supported the confirmation of Teresa Sager-Albaugh's reappointment to the Board of Game.

AL BARRETTE, Chair
Subcommittee on Trapping
Fairbanks Fish & Game Advisory Committee
Fairbanks, Alaska

POSITION STATEMENT: Supported the confirmation of Teresa Sager-Albaugh's reappointment to the Board of Game.

ROBERT (Bob) MUMFORD, Appointee
Board of Game
Alaska Department of Fish & Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Game.

AL BARRETT, Member
Fairbanks Fish & Game Advisory Committee (FFGAC)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of Robert Mumford's appointment to the Board of Game.

JIM POUND, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the proposed committee substitute (CS), Version B, for HJR 40 on behalf of the sponsor, Representative Wes Keller.

KENT SULLIVAN, Assistant Attorney General
Natural Resources Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Provided information regarding HJR 40.

MALCOLM ROBERTS, Consultant
Malcolm Roberts & Associates
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 40.

REPRESENTATIVE LANCE PRUITT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor introduced HB 356.

DIRK CRAFT, Staff
Representative Lance Pruitt
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HB 356 on behalf of the prime sponsor, Representative Pruitt.

DOUG VINCENT-LANG, Acting Director
Division of Wildlife Conservation (DWC)
Alaska Department of Fish & Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 356.

WYN MENAFEE, Chief of Operations
Division of Mining, Land, and Water (DML&W)
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 356.

GEORGE PIERCE
Kasilof, Alaska

POSITION STATEMENT: Testified in opposition to HB 356.

PRESTON WILLIAMS
Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 356.

MIKE CRAWFORD, President
Safari Club International (SCI-Alaska)
Kenai Peninsula Chapter
Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 356.

EDDIE GRASSER, Lobbyist;
Regional Representative
Safari Club International (SCI-Alaska)
Palmer, Alaska

POSITION STATEMENT: Testified during the discussion of HB 356.

ACTION NARRATIVE

[1:08:31 PM](#)

CO-CHAIR ERIC FEIGE called the House Resources Standing Committee meeting to order at 1:08 p.m. Representatives Foster,

Dick, Kawasaki, P. Wilson, Seaton, and Feige were present at the call to order. Representatives Munoz, Gardner, and Herron arrived as the meeting was in progress.

CONFIRMATION HEARING(S): Board of Game

[1:09:36 PM](#)

CO-CHAIR FEIGE announced that the first order of business would be the confirmation hearings of Teresa Sager-Albaugh and Robert Mumford to the Board of Game.

[1:10:48 PM](#)

TERESA SAGER-ALBAUGH, Appointee, Board of Game, Alaska Department of Fish & Game (ADF&G), provided a brief personal history, including that she grew up hunting with her family in Fairbanks and moved to Tok in 1984 and has lived there since then. She currently works for Summit Consulting Services, which is an engineering and construction management firm that manages water and sewer projects in rural Alaska. She said that while she does not have an education in biology, she is an avid hunter/fisher and does run a trapline with her husband when her schedule allows. She emphasized that she has a very deep appreciation for wildlife in Alaska. She indicated she has a strong desire to continue to participate in sound fish and game management through regulation development on the Board of Game. She concluded that she would be pleased to serve another term if the legislature confirmed her appointment.

[1:12:13 PM](#)

CO-CHAIR FEIGE asked for her viewpoint on predator control in game management.

[1:12:30 PM](#)

MS. SAGER-ALBAUGH replied that she supports predator control as a management tool. She emphasized that she bases her decisions on the statutes and regulations that offer fairly strict control and direction on the use of predator control as a management tool.

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ROD ARNO, President, Alaska Outdoor Council (AOC), stated he is the executive director of the AOC, representing 10,000 outdoor

Alaskans. He said in his experience with the Board of Game and Ms. Sager-Albaugh's participation that she comes closest of all the board members to try to comply with the current regulations and statutes. The AOC supports compliance and supports her reappointment to the Board of Game.

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MIKE CRAWFORD, President, Safari Club International - Kenai Chapter (SCI), stated he has also been the chairman of the local fish and game advisory committee. He has attended many Board of Fish and Board of Game meetings. He has found Ms. Sager-Albaugh a competent member of the Board of Game. Her knowledge certainly helps her make the appropriate decisions. He enjoys talking to someone who hunts, traps and participates in outdoor activities since the person will be making decisions on those types of activities. He concluded by offering the SCI-Kenai's support for her confirmation to the Board of Game.

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AL BARRETTE, Chairman, Subcommittee on Trapping, Fairbanks Fish & Game Advisory Committee, stated he has worked with the Board of Game for the past 12-15 years. He has enjoyed working with Ms. Sager-Albaugh during the past three years. He found her to be well prepared for each meeting and that she had reviewed the Fairbanks Fish & Game Advisory Committee's comments. She was also interactive with committee members, including informal discussions during breaks, which allowed for further explanation of any proposals. He offered his belief that she is one of the most knowledgeable members of the Board of Game, who understands subsistence law and intensive management. Furthermore, the Fairbanks committee appreciated her votes on predator control in the Region 3 area and have benefited from several programs that have resulted in increases in caribou and moose populations. He concluded with his support for Ms. Sager-Albaugh.

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CO-CHAIR FEIGE closed public testimony on the confirmation of Ms. Sager-Albaugh and moved to the hearing on the next appointee, Mr. Robert Mumford.

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ROBERT (Bob) MUMFORD, Appointee, Board of Game, Alaska Department of Fish & Game (ADF&G), stated he was passionate

about wildlife issues and has been involved in wildlife somewhat during his time with the Alaska State Troopers. He related that he spent 18 of his 20 years in the Fish & Wildlife Protection (FWP) Division. He is a hunter and fisherman, although not a trapper. He offered his belief that he could bring a perspective to the Board of Game with his FWP experience. He also is an avid berry picker with his family and enjoys being in the outdoors as much as possible. He served five years on the Big Game Commercial Services Board as a public member. He has flown as a wildlife surveyor on the North Slope and for a Tok transporter - Leif Wilson. He concluded that he is concerned about wildlife.

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REPRESENTATIVE DICK asked for his position on predator control.

MR. MUMFORD answered that he is supportive of it as an effective tool available in the tool box for use in certain areas at certain times. He did not think it should always be the first tool chosen, but he can see the benefit of it at times since it has proven to be effective.

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REPRESENTATIVE P. WILSON asked whether his law enforcement experience will help with his service on the Board of Game.

MR. MUMFORD said it will. He enforced laws promulgated for the Board of Game. He retired 10 years ago, but what would help him on the Board of Game is that he has been a wildlife trooper in many areas of the state. He was stationed as a FWP in Sand Point, Kodiak, Fairbanks, Coldfoot, the Kenai Peninsula, and Anchorage. He has observed the issues and talked with a lot of people about issues such as subsistence, hunting, and trapping. He offered his belief that he has had good exposure to a wide-ranging of the area of the state.

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REPRESENTATIVE DICK commented that predator control has been used for bears and wolves. He asked him to describe tools that would be available to use if the bear population is damaging moose and caribou populations. He further asked for his views on whether wolf predator control methods would be different.

MR. MUMFORD answered they might be somewhat different, but would need to be looked at individually. One tool would be to lengthen the seasons [on bears or wolves], bag limits, and to advertise abundance of bears and wolves to hunters residing in the Lower 48 to encourage hunting, instead of arbitrarily killing a lot of the animals. He understood the management aspect, to remove them to propagate other species. He highlighted other tools are also available.

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REPRESENTATIVE KAWASAKI appreciated Mr. Mumford's answer to the last question. He asked for his view of F&G Advisory Committees and how he would view proposals forwarded by the committees.

MR. MUMFORD stated that as a board member he would have to give it quite a bit of weight because the person presenting it to the Board of Game would be representing an entire advisory committee, not the individual's opinion. He said he admires the work done by advisory committees and he has attended some meetings. He stated the advisory committees must come to a consensus so it is helpful to the board to have their opinion. It would be one tool he would use for determining his vote, along with listening to other members of the public, and the ADF&G.

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REPRESENTATIVE KAWASAKI asked how much his opinion would be based on public input versus the science and background the department would provide.

MR. MUMFORD would weigh it all, but he cannot provide a numerical value on each. Some witnesses make a passionate plea rather than giving a scientific reasoning, which he would not give as much weight to; however, he believes in the public opinion process. He pointed out that the public gives the perspective of what they have seen and observed in the local area. He said it is very important to him.

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REPRESENTATIVE DICK commented that in the past Alaska has tended to manage wildlife with the media and emotion. He offered his belief that there is a time to listen, but then step back and make an objective decision. He offered his belief that managing wildlife with media and emotion has led to the wrong path. He

encouraged him to weigh science and sustained-yield principles when making decisions.

MR. MUMFORD agreed Alaska has constitutional mandates. Furthermore, he agreed with Representative Dick that it is not possible to manage by one's heart. The resources don't recognize cute, such as the little baby animals. He did not think that "cute" should be factored in, but rather that good, sound science has to be the main issue.

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AL BARRETT, Fairbanks Fish & Game Advisory Committee (FF&GAC), offered support for Mr. Mumford's appointment. However, he stated the FF&GAC was only notified six hours ago of Mr. Mumford's appointment, so the committee feels somewhat disenfranchised in the public process since it did not have adequate time to perform vetting of the appointee.

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CO-CHAIR FEIGE closed public testimony on the confirmation hearing of Mr. Mumford.

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REPRESENTATIVE SEATON moved to advance the confirmations for appointees Teresa Sager-Albaugh and Robert Mumford, referred to the House Resources Standing Committee for consideration, to the joint session of the House and Senate for consideration after having reviewed their qualifications. He noted that each member's signature on the committee's report in no way reflects the member's vote during the joint floor session. There being no objection, the confirmations were advanced.

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The committee took an at-ease from 1:29 p.m. to 1:32 p.m.

HJR 40-RS 2477 RIGHTS-OF-WAY

[1:32:32 PM](#)

CO-CHAIR FEIGE announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 40, Commending the governor and the administration for aggressively working to enforce the rights of the state in R.S. 2477 rights-of-way; urging the

governor and the attorney general to develop a working alliance with other western states to protect and enforce the states' interests in ensuring access using rights-of-way authorized by R.S. 2477; urging the governor and the attorney general to support the State of Utah and the southern counties of Utah in a lawsuit against the federal government concerning R.S. 2477 rights-of-way, including filing an amicus brief in support of Utah; urging the governor to dedicate state resources to establish, protect, and enforce the state's interests in R.S. 2477 rights-of-way and to preserve state rights-of-way against encroachment by the federal government; urging the governor to reestablish a federalism section in the Department of Law and sections in the Department of Natural Resources and the Department of Fish and Game to support the preservation of the state's rights and powers in compact cases; and urging the governor to prepare an appropriation request to fund an aggressive effort by the state to resolve issues relating to R.S. 2477 rights-of-way, including possible litigation, and to continue to work to preserve the rights of the state in regard to R.S. 2477 rights-of-way. [Before the committee was the proposed committee substitute (CS), Version M, labeled 27-LS1407\M, Bullock, 3/29/12, adopted as the working document on 3/30/12.]

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CO-CHAIR SEATON moved to adopt the proposed committee substitute (CS) for HJR 40, Version 27-LS1407\B, Bullock, 3/30/12 as the working document.

REPRESENTATIVE KAWASAKI objected for the purpose of discussion.

REPRESENTATIVE SEATON requested an explanation on the changes between this version and the prior version.

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JIM POUND, Staff, Representative Wes Keller, Alaska State Legislature, stated that Version B of HJR 40 addresses some concerns that the Department of Law (DOL) had with the prior committee substitute (CS). He referred to Version M, page 1, line 6, which read "the attorney general to support the State of Utah" Version B changes it to the "interests of the State of Utah" and on page 1, line 7, of Version M, deletes "lawsuit to enforce." On page 3, line 20 of Version M, add "interests of." On page 3, lines 20-21 delete "in a lawsuit to enforce Utah's interest" and add on line 22, "litigation in the state." On

page 4, adds a paragraph to indicate the parties who will receive copies of the resolution.

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REPRESENTATIVE SEATON referred to page 1, line 8, and asked whether "in the state" was added.

MR. POUND answered yes.

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REPRESENTATIVE KAWASAKI referred to the first "further resolved" [page 3, line 19] and said he still has a concern regarding the clause. He wondered what "supporting the interests of the State of Utah" actually would represent.

MR. POUND related his understanding that Utah is on point for R.S. 2477 in the West. Utah has won one case in the courts and is in the same situation - greatly exaggerated - since Utah currently has 18,000 specific R.S. 2477 cases the state is asserting. However, Utah's interests are very similar to Alaska's in terms of asserting a right for access through land that previously belonged to the Territory of Alaska that in 1969 was removed, in part. Since then, Alaska has been attempting to assert its right in what was supposed to be an orderly fashion in 1976, but the "orderly fashion" has been restricted by various federal agencies and departments. Currently, Utah is moving forward in the court system, which gives Alaska a chance to learn from that state's mistakes and victories.

REPRESENTATIVE KAWASAKI withdrew his objection. There being no further objection, Version B was before the committee.

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REPRESENTATIVE KAWASAKI observed that the first "further resolved" speaks to the fact the legislature would urge the governor and the attorney general's office to support the interests of the State of Utah. He asked how he would view this request.

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KENT SULLIVAN, Assistant Attorney General, Natural Resources Section, Department of Law, stated Utah is very similarly aligned with Alaska on R.S. 2477, but is ahead of Alaska with

respect to getting R.S. 2477 recognized. Alaska wants to support Utah, to the extent that Alaska can join Utah in moving R.S. 2477 forward and having federal officials recognize the rights-of-way, and create policies to recognize those rights-of-way without having to resort to litigation to assert those rights.

MR. SULLIVAN related his understanding, from meeting with attorney generals from Utah as well as county officials, that Utah would like Alaska to support their efforts by asserting litigation, identifying rights-of-way, and attempting to get federal managers to recognize that through a change in policy, without filing litigation, or by initiating litigation in Alaska.

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CO-CHAIR SEATON referred to the language on page 3, line 20, which seems confusing since it says, "urging to support the interests of the State of Utah; however, he asked whether that is limited because after the counties of Utah, it reads, "in R.S. 2477 rights-of-way" so that is the only interest Alaska is asking for in HJR 40.

MR. SULLIVAN confirmed that this is correct. He said, "It's simply R.S. 2477 rights-of-way since Alaska and Utah are facing the exact same issues. He clarified that Alaska is basically promoting Alaska's interest vis-à-vis supporting Utah's interests with respect to R.S. 2477."

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CO-CHAIR FEIGE opened public testimony on HJR 40.

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MALCOLM ROBERTS, Consultant, Malcolm Roberts & Associates, stated he is also a senior fellow at the Institute of the North; however today he is representing himself. He stated two critical issues are addressed in this resolution with significant ramifications for Alaska's resources until the end of this century and beyond. First, the resolution addresses the valid existing rights of access across federal properties in Alaska, which make up two-thirds of our state. Second, the need to demand that the federal government lives up to the promises made to the Alaska people in 1958 in Alaska's statehood compact. He related his understanding in the reference to the federalism

division of the Department of Law that was discussed last Friday.

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MR. ROBERTS related that U.S. Senator Ted Stevens once commented that Alaska has more disputes with the federal government daily than most states have annually and these disputes are primarily over access. This illustrates how powerful and important this question is to the state. He stated that having vast resources means nothing if Alaska cannot get to them. He said he was not referring only to resources on federal land, but on state land that is unreachable, Native corporate land, Native allotments, and what is left of other private inholdings. He highlighted the good news is that Alaska has legal rights of access that belong to the state and thereby its citizens.

MR. ROBERTS indicated Alaska's rights are based on proven historic trails and were authorized by federal law revised statute 2477 (R.S. 2477), as part of the Mining Act of 1866. He stated these rights should be asserted by the state and it should support Utah and urge other states to do the same. Last Friday it appeared the DOL suggests [the bill sponsor] should back off from the second recommendation with respect to the defense of Alaska's rights agreed to in Alaska's statehood compact.

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MR. ROBERTS said he strongly disagrees with that change if it was made in Version B. He respectfully recommends this committee call for a reestablishment of a division in the DOL for this purpose. Former Governor Walter Hickel set up such a division in the 1990s. This division should be a permanent arm of the state's DOL and should be staffed by the best and brightest attorneys Alaska can attract. He recalled in his 42 year career in Alaska that he has studied, debated, and written reports on both of the issue addressed in this resolution: access and the compact.

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MR. ROBERTS related that he was recruited in 1995 to head a task force to research existing R.S. 2477 rights-of-way throughout Alaska by former Senator Jack Coghill, who was at that time, Chair of the Senate Transportation Standing Committee. Former

Senator Coghill was determined to preserve the state's rights of access and he achieved a great deal in that regard.

MR. ROBERTS highlighted that R.S. 2477 has been utilized by western states to provide public use ranging from walking trails to remote fishing streams and lakes, to access to the banks of state-owned navigable waters, to highway construction on public lands now called Roads to Resources. He stated that the statutory definition of highway as a unique transportation system in Alaska includes roads, trails, streets, and bridges.

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MR. ROBERTS explained that his first assignment was to provide the National Park Service with the information collected indicating the state's valid, existing rights of access so it could be included in the federal planning documents. He noted these were plans that needed to be done after the passage of Alaska National Interest Lands Conservation Act (ANILCA) in 1980. The task force's mission was later expanded to provide similar data for the refuge plans by the U.S. Fish and Wildlife Service (USF&W), scenic rivers, and conservation areas managed by the Bureau of Land Management (BLM) and the U.S. Forest Service. He reported that the task force's final report on January 15, 1987 identified over 600 R.S. 2477 rights-of-way on federal lands in Alaska. However, in the ensuing years the federal government insisted that Alaska must litigate when it wants to assert an R.S. 2477 right-of-way. He emphasized that it is patently absurd to require the state must sue to use something that already belongs to the state. He said, "It's like saying that in spite of the Bill of Rights American citizens have to sue the federal government to get permission to speak." He highlighted that this is one of the rights granted to the state in federal law and it has always been preserved in federal law. The rights belong to the state. The fears that motivated the federal establishment in Alaska were partly the result of a gaffe by the opponents of state access in the federal government, who published a report and put a map on the cover that included all of the possible or proposed roads, trails, and rail lines throughout Alaska. It became known as the spaghetti map and made the State of Alaska look like downtown Los Angeles. The backlash was strong, even from many Alaskans who support access and resource development since it paralyzed the process. As a result, Alaska has retained its standing as having fewer miles of roads than the smallest state in the nation, which is Rhode Island.

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MR. ROBERTS concluded that as a result, Alaska has retained its standing as having fewer miles of roads than the smallest state in the Union - Rhode Island. When the task force wrote its final report in the 1980s, it recommended that the state focus on only eight vital transportation corridors to be asserted and set aside for future use. He highlighted that the recommendation is still valid and should be pursued. He suggested that if he were to read the names of these corridors, most people would understand the reasons for their importance since they would connect key resource areas and communities that are currently isolated due to the lack of access.

MR. ROBERTS said he has been very involved in the Statehood Compact, beginning in the 1980s, with a study by the organization, Commonwealth North, whose members included publisher Bob Atwood, Governor Wally Hickel, Judge James Singleton, Department of Natural Resources (DNR) commissioner Irene Ryan, and environmental planner, Dave Hicka. The report was published as a small book by APU Press called Going up in Flames: The Promises of Alaska's Statehood Under Attack. He offered his belief that this book should be required reading for all those elected or appointed to public office prior to asking them to swear to uphold the Alaska Constitution.

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MR. ROBERTS related he worked closely with Governor Hickel and his legal team to launch four major lawsuits against the federal government that addressed egregious violations of Alaska's Statehood Compact. Unfortunately, these cases were filed late in Governor Hickel's second term - too late to follow through - and those who followed were lukewarm in their support.

MR. ROBERTS stated in 2002, U.S. Senators Ted Stevens and Frank Murkowski through the U.S. Department of the Interior, commissioned the Institute of the North to prepare a detailed 180 page ANILCA training curriculum for land managers, staff, inholders, and all interested Alaskans. Since then the institute has used that curriculum to conduct executive training sessions on ANILCA.

MR. ROBERTS highlighted that page 60 of the curriculum quotes Section 1109 of ANILCA, "Nothing in this title [the transportation title of ANILCA] shall be construed to adversely affect any valid, existing right of access." Section 1110 (b),

which read," ... assure adequate and feasible access ... " to inholdings is guaranteed. Yet these valid, existing rights of access have been ignore or violated - nearly daily - since the passage of ANILCA.

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MR. ROBERTS said it is up to the State of Alaska to force the federal government to obey the law. This will only happen if the state creates a team of top attorneys who are committed to defend Alaska's rights and a governor and attorney general who will back them up. He offered his support for passage of HJR 40 and urged the committee not to leave it at that since there is much to be done.

CO-CHAIR FEIGE, after first determining no one else wished to testify, closed public testimony on HJR 40.

[1:51:08 PM](#)

CO-CHAIR SEATON moved to report the proposed committee substitute (CS) for HJR 40, Version 27-LS1407\B, Bullock, 3/30/12 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection the CSHJR 40(RES) was reported from the House Resources Standing Committee.

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The committee took an at-ease from 1:51 p.m. to 1:53 p.m.

HB 356-LAND MANAGEMENT:HUNTING/FISHING/TRAPPING

[1:53:32 PM](#)

CO-CHAIR FEIGE announced that the final order of business would be HOUSE BILL NO. 356, "An Act relating to land management by the Board of Game and Department of Natural Resources for trapping and sport and subsistence hunting."

REPRESENTATIVE LANCE PRUITT, Alaska State Legislature, stated this bill would prevent net loss of hunting grounds or lands. He said he introduced HB 356 with the goal and intent of creating a baseline number of public hunting areas to ensure people have the same hunting areas tomorrow as they have today. He highlighted that with greater access to the outdoors and natural resources comes a greater appreciation for conservation.

License and tag fees are matched by federal dollars and help protect the conservation of wildlife statewide habitat. Making access more difficult to the average hunter actually results in less revenue for these conservation efforts. He said when opportunities are stripped from the average hunter, people may stop hunting completely and the state will lose valuable outdoor advocates, conservation revenue, and an important part of the state's economy.

REPRESENTATIVE PRUITT reported that many states have already enacted similar legislation; however, applying this concept to Alaska is more difficult than in most states. He emphasized that this is an extremely important issue to himself and many Alaskans.

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DIRK CRAFT, Staff, Representative Lance Pruitt, Alaska State Legislature, stated that Section 1 would add a new section to AS 16.05 requiring the Board of Game to prevent to the greatest practicable extent the loss of acreage available for trapping and hunting when the board establishes open and closed seasons under AS 16.05.255. It would also require the commissioner to report back to the legislature each year.

MR. CRAFT related that Section 2 would add a new subsection to AS 38.04.065, which would require the commissioner of the Department of Natural Resources (DNR) to keep certain land managed by DNR available for trapping, sport, and subsistence hunting, unless the land must be closed for certain reasons. This section also requires the commissioner to report back to the legislature each year.

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REPRESENTATIVE SEATON referred to page 1, Section 1, which requires the Board of Game to manage no net loss of acreage when open and closed seasons and areas are established and the department has reporting requirements. He related a scenario in which in game management unit (GMU) 15 is closed due to conservation reasons it appears that it would need to be reported as a net loss, even though the acreage hasn't been closed. He asked for further clarification on acreage, open and closed seasons, and how that relates to different species within that same area.

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MR. CRAFT said that is a concern of the prime sponsor and additional research is needed. He highlighted that the Alaska Department of Fish & Game (ADF&G) manages resources much differently than in most other states. He deferred to the ADF&G for more details on resource management.

[1:58:29 PM](#)

DOUG VINCENT-LANG, Acting Director, Division of Wildlife Conservation (DWC), Alaska Department of Fish & Game (ADF&G), acknowledged he also has questions, for example, if an area is open to one species, but closed to another, whether the department would consider it to be closed or open under this bill. He said that in general the department supports the principal of trying to keep as much land open to hunting across the state. He questioned if the department closed an area for conservation purposes and not for access purposes, whether the department would need to open another area of the state, which could be difficult due to limited options. Additionally, the area might only be temporarily closed for conservation purposes. He suggested there needs to be a bit more clarity in the language in terms of closures, including closures for single species, access, or conservation purposes. However, the department is supportive of the concept of trying to keep as much land open for hunting as possible.

[1:59:50 PM](#)

REPRESENTATIVE KAWASAKI asked how the department currently manages areas when closures occur.

MR. VINCENT-LANG answered the department tries to keep as much land open to hunting as possible within the biological constraints. The department's goal is to get species recovered to the extent they can provide hunting opportunities. He clarified that in a few cases the Board of Game will adopt special use areas that largely pertain to local access considerations and in those instances they may close certain areas to certain types of access. However, the goal is to keep those areas open to other types of access; again, to try to have as much opportunity on the land mass to provide for hunting and fishing statewide. The department's basic premise is to manage within the biological constraints and allocation guidelines by the Board of Game.

[2:01:11 PM](#)

REPRESENTATIVE KAWASAKI related a scenario in which a management unit was closed for certain reasons, whether it would be the policy of the sponsor or the ADF&G to have a similar area within the same region open. For example, if a unit is closed in GMU 20 A, just north of Fairbanks, whether the goal would be to open up another area near Fairbanks or if an area in South Anchorage would be considered.

MR. CRAFT answered that it is complicated in Alaska and much simpler in other states. He related that sometimes the area is closed for certain species or for conservation, noting Alaska is a resource development state so land is sometimes closed for other reasons. He said, "It is not always as cut and dry as we'd like it to be with this legislation, but we understand there's going to be a lot more work that needs to be done to get to where we want to go with this bill."

[2:02:25 PM](#)

REPRESENTATIVE PRUITT acknowledged that ideally the goal would be to open it up within the same area, but that is not always feasible. He agreed it would be nice to see something available to those hunters and some hunters would like South Anchorage opened up.

REPRESENTATIVE DICK said he really likes the concept. He related a scenario in which there is a pool of land that is currently closed to hunting - for example, if the department closed Section A - whether the department could partially open some other portion within the area that would be shut down.

[2:03:28 PM](#)

MR. VINCENT-LANG explained that the department tries to maintain as many areas as possible open to hunting and fishing within the biological constraints. He was not aware of any large tracts of land currently closed to hunting. He acknowledged some areas may be closed to hunting for certain species or during certain seasons for conservation concerns for a wide variety of reasons. He reiterated that the department tries to maintain a maximum amount of land open for purposes. He surmised one could argue that a few areas are closed, for example, around McNeil River because they are viewing areas, which theoretically could be opened up. However, he emphasized that would take a whole range of actions to open the area beyond what the department could do.

2:04:36 PM

WYN MENAFEE, Chief of Operations, Division of Mining, Land, and Water (DML&W), Department of Natural Resources (DNR), in response to Representative Dick's question, explained that ADF&G manages the open and closure of wildlife hunting, fishing, and trapping in areas through their regulations, which is different from opening and closing of land that the division manages. The DML&W may end up restricting use that would prevent hunting in a certain area, but the division doesn't actually make a closure to hunting. He related a scenario in which there is an oil and gas operation or a mining operation in which blasting may occur. The division would give site control to the company via the lease to be able to restrict access to the area, which in fact, restricts hunting. The department does not currently make a "no net loss" decision in management practices. The department would not require some other land since a limited amount of land in state ownership so a pool is not available to draw from for replacement.

MR. MENAFEE said it is different than managing wildlife in terms of where people can and cannot hunt by regulation like ADF&G does. The DML&W discusses whether access is available to hunt or not.

2:07:06 PM

CO-CHAIR FEIGE asked, for example, if a mine operator or oil and gas company would be able to control hunting and fishing access via a lease.

MR. MENAFEE answered that is correct. When someone has exclusive lease of land, which is a provision in many DNR leases, then the operator can control access inclusive of someone hunting. Having said that, the division currently has nearly 100 million acres and in that acreage the propensity for hunting, trapping, and fishing occurs since the division doesn't place restrictions on the activity. Thus the activity would generally be allowed. He clarified it is only in the little, small pieces of land in which special uses have been authorized that restrictions can occur.

2:08:14 PM

CO-CHAIR SEATON inquired with respect to ADF&G's constitutional mandate, related his understanding the department must manage for utilization under the sustained use principle. He asked

whether the department does not following the sustained use principle in any areas of the state.

MR. VINCENT-LANG answered that it is relative, since one could argue that hunting opportunity around McNeil River; however, the decision has been made the sustained use best use is for viewing rather than hunting opportunities. He reiterated that the ADF&G manages for the biological resource and the use of the resources within decisions made by either the legislature or the Board of Game as to how to best use those resources. He was unaware of chunks of land that the ADF&G has set aside where there is opportunity for harvestable surplus or viewing opportunities that were closed or set aside that could be made available to the public. It is the department's goal to make as much of that area available as possible to the public to hunt or view.

[2:10:03 PM](#)

REPRESENTATIVE SEATON stated, with respect to areas such as the Dalton Highway, that there is restricted access for off-road vehicles within a certain distance within the corridor. He asked whether the provision on page 2, line 8, which read, "(2) manage land under the authority of the Department of Natural Resources to support, promote, and enhance trapping and sport and subsistence hunting to the extent authorized by law" would restrict the state's ability to have non-motorized vehicle use off the corridor. More specifically, the state has been trying to extend roads to resources. He asked whether this provision would conflict with the restrictions the state has along the new roads.

MR. MENAFEE answered the way it currently reads under [proposed AS 34.04.065] (j)(2), the fact that it says the DNR would need to manage land to support, promote, or enhance trapping and sport and subsistence hunting to the extent authorized by state law sets up a mandatory obligation to enhance those activities. Further, issuing any authorization that would restrict use would not enhance those uses so it sets up an inherent conflict with authorizing development that would in any way restrict that use. He offered his belief challenges exist to wrestle with the other aspects of responsibilities in other parts of the law.

[2:12:14 PM](#)

REPRESENTATIVE SEATON surmised that "authorized by state law" means the legislature could legislate a restriction; however, oil and gas leases by regulation seems as though it would run

afoul of the language the way it is currently written even though that may not have been the intent.

MR. MENAFEE agreed, that while it may not be the intent, it does appear to put specific uses over other uses. Additionally, he agreed the language "the full extent authorized by state law" does cause a conflict.

[2:13:18 PM](#)

REPRESENTATIVE PRUITT, as prime sponsor of HB 356, responded that discussions with DNR have not yet succeeded in modifying the language; however, the goal is not to hamper oil and gas development or mining. He emphasized work continues on the conflicting language.

REPRESENTATIVE SEATON reiterated that he did not think it was the intent of the bill to create the conflict, but rather that the bill identifies issues that need further clarification.

CO-CHAIR FEIGE opened public testimony on HB 356.

[2:14:26 PM](#)

GEORGE PIERCE stated he is representing Alaskans. He said, "No on HB 356." He stated that a major problem exists. He suggested that the Board of Game needs examination, noting he listened to testimony on the Board of Game nominees. He took issue with the people the governor nominates to serve on the Board of Game. He offered his belief that people are not nominated to the Board of Game unless they are for predator control and the decisions for fish and game should be based on science and not politics. He reiterated he belief the boards are controlling the fish and game resources based on politics. He highlighted that the Kasilof area has been fighting with the Department of Natural Resources (DNR) for the past two and a half years about a special use area at the mouth of the Kasilof River that is under consideration. The majority of the residents told them they did not want the special use area. The residents appealed the proposal, but the [board] is still continuing to take public testimony and treats it like nothing happened. The resources belong to the people and the game permits should not be given away to people in the Lower 48, he stated. He emphasized his desire for the legislature to investigate the Board of Game. He further requested that performance audits be conducted to see what the board is doing for Alaskans.

2:16:48 PM

PRESTON WILLIAMS stated that lands in the Lower 48 have been closed, particularly on the federal level, but it still affects states. Sometimes states mirror the federal action to acquiesce. He offered his belief this bill is fine. He recalled access to mines being mentioned, and noted that mining roads often enhance hunting ability if hunters are allowed access during the season. He related his understanding the oil companies sometimes do coordinate access to hunting during the hunting season. He offered his belief the issues can be worked through and he would rather have a bill to close the gap on politics on other levels - not the politics of the legislature or the Board of Game.

2:18:05 PM

MIKE CRAWFORD, President, Safari Club International (SCI-Alaska), Kenai Peninsula Chapter, stated that hunting and trapping is an Alaskan way of life and is part of our culture. Too many states have reduced opportunities not for conservation, but since non-consumptive users want an area that hunting is not allowed. He offered his belief that is what this bill will address. Further, if it is open to hunting it is open to all other activities generally and for that reason the bill should not be opposed by anyone. He suggested that if an area is closed and a new area is not available to open up, this needs to be compensated for by improving access to areas that are too difficult to reach.

2:19:20 PM

EDDIE GRASSER, Lobbyist; Regional Representative, Safari Club International (SCI-Alaska), stated that he is also the former National Rifle Association representative for Alaska. He said he grew up in Alaska. He offered his belief significant land has been closed equal to some states' area and size, but this bill does not address whether an area can be opened to offset a closed area. He stated the intent of the bill is not to have any more areas closed to hunting. He recalled that he used to hunt in the Wrangell Mountains, the Paint River, and certain areas of Chugach State Park, but hunting is no longer allowed in those areas.

MR. GRASSER said the list of closures for hunting and trapping goes on and on. He has been working with the bill sponsor and

his goal is not to stop legitimate development in Alaska, such as mining, oil and gas, and other legitimate uses. The SCI-Alaska's commitment to conservation is such that the organization understands some seasons will need to be closed at times.

[2:21:03 PM](#)

MR. GRASSER recalled when he was staff to the [House] Resources Committee years ago, that a constituent called after the director of the State Parks had closed the area on Byers Creek for reasons of public safety. He understood the reasoning the division used to avoid human and bear conflicts; however, hunters might also want to have access to the bears that would congregate there. That type of decision - to close bear hunting in an area with lots of bears - for reasons of public safety did not make any sense to his organization. He encouraged members to consider potential future closures of millions of acres to hunting, noting tens of millions of acres have been closed since he was a boy.

[2:22:02 PM](#)

CO-CHAIR FEIGE asked what the reasons are for closure.

MR. GRASSER said that primarily the closed areas are federal and related to Alaska National Interest Lands Conservation Act (ANILCA). Additionally, if a facility is built on state lands in a matter of time a proposal will come before the Board of Game to close the area for public safety reasons. He offered his belief that hunters may need to oppose some development projects for this reason.

[2:23:07 PM](#)

CO-CHAIR SEATON asked for clarification on facilities.

MR. GRASSER answered the type of facility he was speaking to include boardwalks and viewing stations.

[2:23:24 PM](#)

REPRESENTATIVE HERRON asked whether he was recommending a committee substitute that would relate to preventing closures rather than to trade for no net loss of hunting.

MR. GRASSER acknowledged there might be a way to do so. He explained that this bill was crafted from boilerplate legislation that has been passed by other states, as previously mentioned by the bill sponsor. He suggested that the bill's genesis was the result of leading sportsmen's groups such as the NRA, SCI, and National Shooting Sports Foundation, and Boone and Crockett. He said the National Shooting Sports Foundation and the NRA actually took the lead in crafting the boilerplate language that is the genesis of this bill. It seemed to the SCI-Alaska like a good way to stop closures. He recalled the debate on Paint River, related to a fish ladder, which raised the issue of attracting more bears to the Paint River. Some people wanted the area closed to prevent bears that normally habit the McNeil River from wandering to and being taken on the Paint River. He stated that the fish ladder was never built, but the Paint River was never reopened to hunting.

MR. GRASSER said he would support Paint River closure if the department opened the south side of Chugach State Park from Anchorage to Girdwood open for sheep hunting; however, that effort did not gain traction. He said, "More people are locked out from hunting because of closures than there are people being locked out for viewing or whatever." He concluded the SCI-Alaska's interest is to stop more lands from being closed to hunting, which the NRA supports, too.

[2:25:46 PM](#)

REPRESENTATIVE KAWASAKI observed, regarding the issue of public safety, that page 2 of the bill provides DNR with the authority to close an area for public safety reasons. He said he thinks that is still part of this bill, which would allow for a determination by DNR to close certain areas to hunting and restrict hunting and fishing access. He said he wanted to place this on the record.

MR. GRASSER agreed.

[2:26:28 PM](#)

REPRESENTATIVE KAWASAKI, regarding the federal lands that have been shut down or restricted. He said he has drafted an amendment that would address the ability of the department to work cooperatively with the federal agencies and federal lands to allow for further access. He asked whether that is something that his group would support.

MR. GRASSER offered his belief that they probably would do so since access is a huge issue throughout the nation. He related that as a national board member of the SCI, he has attended lots of meetings during the last four years. He has worked with Responsive Resource Management, and one of the leading experts in the nation on hunting and fishing issues. He highlighted that access and getting youth out of doors represent two of the main issues revolving around the future of hunting heritage, not just in Alaska, but nationwide.

[2:28:00 PM](#)

CO-CHAIR FEIGE, after first determining no one else wished to testify, closed public testimony on HB 356.

[HB 356 was held over.]

[2:28:46 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:29 p.m.