

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

March 29, 2021

3:32 p.m.

MEMBERS PRESENT

Senator Joshua Revak, Chair
Senator Peter Micciche, Vice Chair
Senator Click Bishop
Senator Gary Stevens
Senator Jesse Kiehl
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Natasha von Imhof

OTHER LEGISLATORS PRESENT

Representative Mike Cronk

COMMITTEE CALENDAR

CONGRESSMAN DON YOUNG'S SEWARD'S DAY ADDRESS ON ALASKA RESOURCES

- HEARD

PRESENTATION: 30 BY 30 INITIATIVE

- HEARD

SENATE BILL NO. 101

"An Act extending the termination date of the Citizens' Advisory Commission on Federal Management Areas in Alaska; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 101

SHORT TITLE: ADVISORY COMMISSION ON FEDERAL MGT AREAS

SPONSOR(S): RESOURCES

03/05/21 (S) READ THE FIRST TIME - REFERRALS
03/05/21 (S) RES
03/29/21 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

CONGRESSMAN DON YOUNG
U.S. House of Representatives
Washington, D.C.

POSITION STATEMENT: Provided an update and his perspective of Alaska resources.

DICK MYLIUS, representing self
Anchorage, Alaska

POSITION STATEMENT: Presented an overview of the 30 by 30 Initiative.

DOUGLAS VINCENT-LANG, Commissioner
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Addressed the Biden Administration's Executive Order on climate change and the 30 by 30 Initiative.

BETTY TANGEMAN, Staff and Committee Aide
Senator Joshua Revak
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 101 on behalf of the Senate Resources Standing Committee.

KRIS CURTIS, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on SB 101, presented the sunset audit report for the Citizens' Advisory Commission on Federal Areas (CACFA).

DANIEL MORSE, Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 101.

SUSAN SMITH, Commission Member
Citizens' Advisory Commission on Federal Areas (CACFA)

Chokosna, Alaska

POSITION STATEMENT: Answered questions and provided information during the hearing on SB 101.

TINA CUNNING, ANILCA Specialist

Anchorage, Alaska

POSITION STATEMENT: Provided background on ANILCA during the hearing on SB 101.

STAN LEAPHART, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 101.

JOHN STURGEON, representative

Safari Club International Alaska Chapter

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 101.

ACTION NARRATIVE

[3:32:16 PM](#)

CHAIR JOSHUA REVAK called the Senate Resources Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Bishop, Kawasaki, Micciche, Kiehl, and Chair Revak. Senator Stevens joined the meeting shortly thereafter.

CONGRESSMAN DON YOUNG'S SEWARD'S DAY ADDRESS ON ALASKA RESOURCES

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CHAIR REVAK introduced and welcomed Congressman Don Young to give an update and his perspective of Alaska resources.

[3:33:59 PM](#)

CONGRESSMAN DON YOUNG, U.S. House of Representatives, Washington, D.C. began his address by highlighting that Mr. Seward's purchase of Alaska for the U.S. was probably the best buy of public lands from another country in the history of the world. Alaska has had a tremendous advantage because of the natural resources, but it became overly dependent on one source of income. He urged the legislature to address this imbalance by looking at the diversification of natural resources on state lands. He acknowledged that this could be challenging because some people do not want any resources developed in the state and others claim the state constitution prohibits resource development.

CONGRESSMAN YOUNG suggested developing a program and plan that looks at available mineral, fossil fuel, timber and other resources on state land that could provide an economic base. He offered his perspective that the state has always been a resource oriented state and that there will be no other large industry until hydroelectric and geothermal sites are developed to produce surplus energy. "Once we do that we marry that with the minerals and the other products that God's given us, and we can have a real sound, long-term economic base in the state of Alaska," he said.

CONGRESSMAN YOUNG offered his perspective of the suggestion that tourism could be the state's economic base instead of natural resource development:

Some people are saying we don't need that, we'll live on tourism. You've seen what's happened to the tourist industry. It's been a disaster - quite simply because of government interference. I'm trying to get the boats sailing this year; it's going to be real close. I'm not sure it can happen in time. But the whole state has to have more than just one source of income. We have to have all the diversification as possible.

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CONGRESSMAN YOUNG restated that he would like the legislature to look at the natural resources the state has and whether they can be developed. He continued:

Why can't we if we can't? Is it government interference? And that's where I come in. I believe we can do it through the courts, I believe we can do it through legislation. It's interesting times back here in Washington, D.C. I'll tell you that right now. We have some strange squirrels in this Congress that don't believe we need to anything. We're going to live off of I might say hot air - we probably get most of it out of Washington, D.C. but their theory will not work.

CONGRESSMAN YOUNG concluded his comments by again urging the legislature to diversify and develop the natural resources in the state.

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SENATOR BISHOP asked if there would be any money in the federal infrastructure bill for hydroelectric power and if any of it might come to Alaska.

CONGRESSMAN YOUNG answered that he did not know if states would receive a capped amount or if money would be allocated by project, but his intention was to spread it around. He added that the delegation needed specific information about the small hydro sites throughout the state so he could argue for those in committee. He expressed doubt that the Susitna hydro project would be included.

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SENATOR MICCICHE commented that the rise in oil prices after the container vessel became stuck in the Suez Canal helped the fiscal situation in Alaska.

CONGRESSMAN YOUNG offered his view that somebody was not paying attention.

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SENATOR STEVENS observed that all the squirrels are not in D.C.

CONGRESSMAN YOUNG responded and emphasized the need to develop the natural resources in Alaska and other states as opposed to importing from other countries.

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SENATOR KIEHL thanked him for the bill he introduced to return cruise ships to Alaska waters this season. "It was probably one of the cleverest pieces of legislative drafting I have seen in a very long time of watching this work," he said.

CONGRESSMAN YOUNG replied he had high hopes, but it was not clear that it would be in time for the upcoming season.

CHAIR REVAK thanked him for making the time to address the committee on Seward's Day and expressed appreciation for what he does on behalf of Alaskans.

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CONGRESSMAN YOUNG concluded his comments with a recollection of lighting a cannon in celebration of Seward's Day many years ago when he was visiting Sitka.

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CHAIR REVAK recognized that Senator Stevens had joined the committee and Representative Cronk was in the audience.

PRESENTATION: 30 by 30 Initiative

3:45:30 PM

CHAIR REVAK announced an overview by Dick Mylius on the Biden Administration's 30 by 30 Initiative and what it means in Alaska.

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DICK MYLIUS, representing self, Anchorage, Alaska, introduced himself and informed the committee that he worked on land management issues at the Department of Natural Resources (DNR) for 29 years and since he retired he has been working part time as a consultant and trainer on Alaska lands issues.

MR. MYLIUS reviewed the 30 by 30 goal on slide 1, which is to conserve 30 percent of the nation's land and waters by 2030. This is an international effort to address loss of habitat, species extinction, and climate change. He highlighted that this goal considers 30 percent of all lands, not just federal lands, and it applies to protection of waters. He offered his understanding that neither the U.S. House nor the U.S. Senate resolution that set the goal had passed.

He stated that the President Biden's Executive Order charged the secretaries of Interior, Agriculture and Commerce, and the Chair of the Council on Environmental Quality to submit a report by April 27 outlining the next steps. The Department of Interior indicated that 12 percent of the lands nationwide are permanently protected. However, neither the Biden Administration, Congress nor federal land and water managers have defined what constitutes conserved or protected lands or waters. That needs to be done to determine whether or not the goal is being met. He said that based on his search of websites, advocacy groups have widely differing opinions. Some advocate that the only protected lands are federally designated wilderness while others say lands such as U.S. Forest Service, BLM, and state of Alaska multiple use lands could be considered protected lands.

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MR. MYLIUS displayed the list on slide 3 that shows that according to the Department of Interior definition of protected lands, more than 40 percent or 149 million acres of Alaska's 365 million acres are protected. This includes national wildlife

refuges, national parks, the Tongass National Forest Wilderness, the Chugach Wilderness Study Area, BLM national conservation system lands, the White Mountains National Recreation Area, state parks, and state wildlife areas. He highlighted that the only areas in the Tongass and Chugach national forests that are identified as protected are those that are designated as wilderness or wilderness study areas.

He reviewed the waters in Alaska currently under protection. This includes 60-65 million acres in state waters and the federal waters that extend from three to 200 miles offshore. He noted that Commissioner Vincent-Lang will discuss federal waters. He reviewed the following sample of state water designations:

- 17 Critical Habitat Areas established in AS 16.20, examples - 1.5 million acres (land and water):
 - Copper River Delta (550,000 acres)
 - Kachemak Bay (229,620 acres)
- Susitna Flats State Game Refuge (497,698 acres)
- 34 State Marine Parks (77,000 acres)
- Bristol Bay Fisheries Reserve

MR. MYLIUS advised that the state is responsible for placing any more tidelands and submerged lands into protected status, not Congress.

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MR. MYLIUS outlined the national issues associated with the 30 by 30 Initiative. He paraphrased the following from slide 5:

[Original punctuation provided.]

What constitutes "protected" or "conserved" lands?

Department of Interior refers to 2016 USGS report: "Completing America's Inventory of Public Park and Protected Areas" - data base recently updated

Emphasis on acreage versus high value lands - emphasis on acreage has a greater impact federal lands in West Executive order and Congressional resolutions direct federal agencies to work with state, local, private landowners to voluntarily conserve and protect lands

Examples of actions state and private owners could take:

- sell land to federal government for Conservation
- establish conservation easements
- sell carbon credits

MR. MYLIUS turned to slide 6 and reviewed the Alaska specific issues associated with the 30 by 30 initiative that officials in Washington D.C. may not be aware of. He made the following points:

It is no surprise that some non-governmental organizations (NGO) are already advocating for more protected lands in Alaska.

- Outside of Alaska there is a lack of awareness about how much state and federal land in Alaska is already protected. That is why it is important to broadcast that it is 40 percent.
- Many NGOs and federal officials in Washington D.C. have no knowledge about the compromises and balance struck in the Alaska National Interest Lands Conservation Act (ANILCA).
- There is also a lack of awareness that ANILCA includes unique Alaska-specific provisions such as access rights and exceptions to prohibitions in the Wilderness Act.
- The "no more clause" or sections 1326(a) and (b) of ANILCA is particularly important. Section 1326(a) imposes a 5,000-acre restriction on the administration on withdrawals in Alaska unless Congress approves within a year. Any Antiquities Act withdrawals by the president or secretaries of Interior or Agriculture are subject to that limit. He noted that Congress can ignore this but the administration cannot.
- Section 1326 (b) of ANILCA states that unless directed to do so by Congress, federal agencies are prevented from studying Alaska lands specifically for the purpose of establishing new conservation areas.

MR. MYLIUS concluded his testimony and offered to answer questions.

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CHAIR REVAK asked if he had any advice for the state to defend itself against what he imagines will be efforts to expand protections under ANILCA.

MR. MYLIUS said he believes it is important to 1) emphasize to the administration that it is limited in what it can do under ANILCA; 2) educate people in D.C. about what ANILCA is and what it contains; and 3) stay in touch with the Alaska delegation to see if the state needs to take any action in this regard.

SENATOR MICCICHE asked if he agrees that the 30 by 30 Initiative passed during a Republican administration.

MR. MYLIUS replied he was not aware of any legislation, but it is an international effort that predates the Biden administration.

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SENATOR MICCICHE expressed hope that Alaska could get 35 million acres removed from protection since the state is well above the 30 percent target. He said he was more concerned about federal waters where a lot of Alaska family and larger corporate fishing takes place. He asked if there was any indication of what that might look like.

MR. MYLIUS deferred the question to Commissioner Vincent-Lang.

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SENATOR KAWASAKI asked if he expected western states to band together to offer an offense to the 30 by 30 measure since those states have an abundance of federal land compared to eastern states. He reported that just 1.62 percent of the land in Massachusetts is federal and 0.27 percent or just under 9,000 acres in Connecticut is federal, whereas Nevada has 81 percent in federal hands and Alaska has a lot in federal hands as well.

MR. MYLIUS replied he would think it would be in the interest of those western states to band together because that is where the easy acres of federal lands are located. It's more difficult in the east, some of which really needs protection, and in places like Kansas and Nebraska that have very little protected land.

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SENATOR STEVENS asked if he expects Congress to pass the resolutions with just the goals but no process.

MR. MYLIUS replied Congress would have to establish process at some point if it wanted to set aside federal lands to the level that is being discussed.

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SENATOR MICCICHE commented that the 30 by 30 Initiative is an international effort that has some states and industries living in fear even though the U.S. has not acted on it. He expressed hope that it does not come to reality without some sort of process because states like Nevada and Alaska are already at a disadvantage. He asked if he agrees that it is a little disturbing.

MR. MYLIUS clarified that there would be a process, but at this point neither the administration nor Congress has figured out how to proceed. The report that is due at the end of April may shed light on the next steps.

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CHAIR REVAK thanked him for the presentation and his work on behalf of the state.

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CHAIR REVAK welcomed Commissioner Vincent-Lang.

[4:05:24 PM](#)

DOUGLAS VINCENT-LANG, Commissioner, Alaska Department of Fish and Game, Juneau, Alaska, stated that ADF&G is and will remain the principal manager of Alaska's fish and game resources. He thanked the committee for the invitation to provide comments on the Biden Administration's executive orders on climate change and the 30 by 30 Initiative. He advised that his staff had been reviewing the EOs and would provide detailed written comments by the deadlines established in the National Oceanic and Atmospheric Administration (NOAA) and U.S. Fish and Wildlife Service's requests for information. He said his comments were based on testimony he provided on the two issues during the NOAA hearing last week.

COMMISSIONER VINCENT-LANG stated that Alaskans are very proud of the rich on- and off-shore resources of the state that are sustainably managed to be used, developed, and conserved in the best interests of the economy and wellbeing of Alaskans now and in the future, as required in the state constitution. He said Alaska's fish and game management programs are lauded worldwide for maintaining healthy populations of fish and wildlife species that provide food, recreation, and economic benefit. The right

balance between conservation and responsible resource development is evidenced by the fact that Alaska produces most of the fish caught in waters off the coast of the U.S. The average wholesale value is approximately \$4.5 billion a year. Alaska's resources provide jobs and a stable food supply for the nation while supporting a traditional way of life for Alaska Natives.

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COMMISSIONER VINCENT-LANG highlighted that Section 2(a) of the executive order on the 30 by 30 Initiative has a goal of conserving 30 percent of lands and 30 percent of waters by 2030. He emphasized that when this directive is implemented, it is important to recognize that conservation includes the human use of natural resources for public benefit and sustainable social and economic utilization. He said this is a key point that must be established at the beginning of the process because conservation simply is not preservation. The methods used for conservation in Alaska should be the model for establishing guidelines for determining whether lands and water qualify for conservation under this executive order. As Mr. Mylius said, national parks, preserves, forests, monuments, and wildlife refuges currently cover about 40 percent of Alaska and much of the remaining area outside of these is well-conserved already. He emphasized that Alaska clearly does not need more lands set aside. The goal has already been exceeded. He suggested looking at the provisions Congress included in ANILCA over 40 years ago to see that it not only addressed conservation designation in the state but also amended the Alaska Native Claims Settlement Act (ANCSA) and the Alaska Statehood Act to ensure that conservation designations would not interfere with state or Native corporation land entitlements or the ability to have access to and use of lands and waters for a variety of purposes such as rural community access, infrastructure needs, and opportunities for responsible resource development.

He stated that ANILCA Section 101(d) is clear in congressional intent that no further legislation or regulation designating new conservation system units, national recreation areas, or national conservation areas are warranted because ANILCA struck a proper balance between protection of the national interest in public lands in Alaska and future economic and social needs of the state and its citizens. Congress confirmed this by taking additional steps in ANILCA Section 1326 to limit the power of the executive branch to use its authority to upset that proper balance. That section provides clear and unambiguous restrictions on future executive branch actions with respect to

future withdrawals and future studies or reviews without congressional approval. Including this language was intentional and done with considerable effort. The no more clauses in ANILCA were critical in striking the necessary balance for ANILCA's successful passage.

COMMISSIONER VINCENT-LANG emphasized that with the passage of ANILCA 40 years ago, Alaska surpassed the intent of the 30 by 30 goal. Nearly 40 percent or 137 million acres of Alaska is already designated for conservation purposes. ANILCA was and remains today the single largest expansion of protected lands in U.S. history; it nearly doubled the size of the national park system. Nevertheless, he said the federal government continues to create new terms of art such as wilderness study areas, areas of critical environmental concern, or aquatic resources of national importance, all of which furthers diminishing access to state resources by Alaska citizens.

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COMMISSIONER VINCENT-LANG stated that, as with land, Alaska does not need more water set aside. He pointed out that over 60 percent of Alaska's Exclusive Economic Zone (EEZ) is closed to some or all fisheries to conserve habitat, sustain fisheries in coastal communities, and protect marine mammals. Furthermore, over 1 million square miles of Alaska's coast has been selected as proposed and dedicated critical habitat for a variety of listed endangered species. This area is the size of the seven largest Lower-48 states combined, whereas there is less 0.5 million miles of proposed and designated critical habitat off the coast of the entire Lower-48 states.

He said management programs for Alaska's lands and waters are developed through well-established processes that provide for healthy and intact ecosystems and ensure conservation. He emphasized that setting aside additional lands and waters in Alaska solely to achieve a numeric goal would be a disservice to other parts of the country where restoration and conservation is sorely needed. He said not conserving those areas would set up a 30 by 30 approach as a failure for conserving nature.

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COMMISSIONER VINCENT-LANG restated that there is no need to conserve more of Alaska. In fact, the rest of the nation and the world should work to look more like Alaska. He suggested the Biden Administration look beyond the U.S. and encourage land and water set asides in countries that have weaker environmental

regulation on their lands and waters compared to Alaska and the U.S.

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COMMISSIONER VINCENT-LANG turned his attention to the climate initiative that is rooted in the 30 by 30 Initiative. He said Section 216(c) of the executive order directs NOAA to gather input on ways to make management of fish and game habitat more resilient to climate change. However, this should not be at the expense of other biological, social, and economic factors that directly impact fish and wildlife and may be more immediately pressing. For example, climate change driven Endangered Species Act listings in Alaska for species like ringed seals and bearded seals that number in the hundreds of thousands to millions is prioritizing resources away from species with higher conservation needs such as the North Pacific right whale that has a population of about 30.

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COMMISSIONER VINCENT-LANG stated that based on experience in Alaska, existing management processes are best suited to ensure that fish and wildlife resources are resilient to changes in climate and other environmental factors. Through the Alaska boards of fisheries and game, the North Pacific Fishery Management Council, and other bodies Alaska's fish and wildlife management programs use a variety of conservation tools to adapt to environmental, social, and economic changes, including climate-related variables. In addition, the North Pacific Fishery Management Council has already begun the process of evaluating how to make fisheries more resilient to climate change through an action module for climate change within the Bering Sea fishery ecosystem plan. He said these well-established management processes are science-based, flexible, and stakeholder driven. They provide a successful model to address climate change impacts on the marine ecosystems that support fisheries.

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COMMISSIONER VINCENT-LANG said a critical aspect of resilience of protected areas to climate change is ensuring connectivity and low levels of other stressors. When an area is closed, effort intensifies elsewhere. What is less certain is what happens to fish and wildlife stock outside of the protected area. He said unlike other states, Alaska already has 40 percent of its lands and waters set aside and this provides considerable resilience to climate change impacts. He suggested that federal agencies should recognize the success of current conservation

and management processes and ensure additional conservation efforts are not simply additional regulatory and administrative hurdles and burdens that do nothing or little to make fisheries and protected resources more resilient to climate change.

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COMMISSIONER VINCENT-LANG stated that ongoing science and monitoring are critical to Alaska's conservation and management programs. NOAA should continue to support fishery and ecosystem surveys to provide the best available information to assess and manage fisheries and other species. He said he cannot overstate the importance of maintaining baseline data collections in the face of changing environmental conditions. Although science and research needs to evolve over time, it is crucial to maintain support for existing surveys and monitoring programs rather than shift substantial resources to new climate science efforts.

He offered his view that states should have access to robust grant opportunities to address federal initiatives that affect the ability to prosecute fisheries and permit activities. Adequate funding for states to improve science monitoring and climate change impacts to fisheries and marine mammals is critical for robust management of these shared resources. He said it is too oft that federal agencies decrease external funding opportunities as a way to pay for new federal initiatives. In such cases the new initiatives tend to fail because states are not viewed as true partners.

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COMMISSIONER VINCENT-LANG concluded that any 30 by 30 effort should be focused on conservation, not preservation. It needs to be linked to human use on the landscape. Unlike other states and nations, Alaska should be recognized for the vast amount of habitat that is already in some type of conservation status. It is far more than the 30 percent specified in this initiative. He again stated that Alaska does not need additional set asides; efforts should be focused elsewhere. Regarding climate change, any effort needs to recognize that while climate is an important factor, it should not become the most important management consideration because other factors can affect fish and wildlife and the habitats they occupy may be spatially and/or temporally more important. He said biological systems are indefinitely complex so it is imperative to not become myopic in the quest to address climate impacts.

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SENATOR STEVENS asked for his long term view of the conservation of resources as the population of the state increases.

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COMMISSIONER VINCENT-LANG replied the demand on resources will increase as the population grows and he believes that the key to conservation is sustainable management. He opined that a sustainable goal should be embedded into any federal plan to initiate 30 by 30 because conservation keeps people in touch with the land more than if it is simply set aside. In fact, the North American model has proven that the more people are connected to resources, the more they will be willing to pay for them over the long term.

SENATOR STEVENS commented that the growing population in the MatSu accompanied by shrinking habitat illustrates that long view.

COMMISSIONER VINCENT-LANG responded that he understands and applauds the goal of 30 by 30 to maintain biodiversity across the landscape, but he does not believe that land needs to be preserved to do so. It is possible to maintain biodiversity by conserving land.

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CHAIR REVAK asked him to talk about the difference between conservation and preservation because ANILCA has special provisions for Alaska that are based on conservation so Alaskans can use these lands for their benefit. He questioned how this might relate to the no more clause

COMMISSIONER VINCENT-LANG responded that conservation is the wise use of the land to ensure sustainability of resources and the long term connection of humankind to the resources and the benefit it provides. By contrast, preservation sets the land aside to become a biodiversity area. He restated that it is early in the process so there is an opportunity to help the federal agencies define how to implement the metric of what is conserved versus protected and what qualifies under 30 by 30.

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SENATOR MICCICHE commented that since the 1970s the U.S. has moved from doing a relatively good job of protecting the environment to a state of the art job, yet it turns a blind eye to countries that, at this point, have no intention of changing the way they operate with regard to conservation or preservation of the environment. He asked how that paradigm can be reversed.

COMMISSIONER VINCENT-LANG replied he tends to agree and that is why his opening comments included that more jurisdictions should be like Alaska as they develop their resources. He opined that rather than setting aside more land in the U.S. to maintain biodiversity worldwide, a better approach would be to encourage better environmental regulations in other jurisdictions.

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SENATOR BISHOP offered his belief that the initiative should include a metric to determine how much coastline and land is needed to be able to feed the country. He described the notion that Alaska could lose 30 percent of its fishing grounds as alarming.

COMMISSIONER VINCENT-LANG responded that some of what he fears is that the initiative will provide an opportunity to set aside marine sanctuaries in the waters off the coast of Alaska. He said those are no fishing zones and ADF&G does not believe that is necessary to have conservation. "You can have conservation and fishing at the same time."

SENATOR STEVENS commented that Alaska is the "low hanging fruit" or obvious target because other states have overdeveloped their resources.

COMMISSIONER VINCENT-LANG emphasized the importance of Alaska taking a hard stance and highlight how much of its land is already in conservation status and that the metric is conservation, not preservation.

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CHAIR REVAK noted that the Dunleavy administration had taken assertive steps to maintain Alaska's rights by joining other states to sue the Biden administration over the oil and gas moratorium and last Friday announcing the state sovereignty initiative. He expressed hope that both the Department of Natural Resources (DNR) and the Alaska Department of Fish and Game (ADF&G) were prepared for federal encroachments on ANILCA and other federal laws that have promised things to the State of Alaska.

COMMISSIONER VINCENT-LANG replied the potential of having to defend over wilderness status and ANILCA is why the governor proposed \$4 million in the capital budget for the Department of Law.

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SENATOR KIEHL noted that the state had an opportunity to comment on the initiative, and asked if he could give a preview into the sorts of metrics or approaches the Dunleavy administration will propose if the 30 by 30 Initiative were to move forward.

COMMISSIONER VINCENT-LANG offered his belief that the federal agencies were just as confused as the state about the 30 by 30 Initiative. He advised that the department is taking the opportunity to educate those agencies about ANILCA, the amount of land in Alaska that is already in conservation status, and that any metric established at this point should be based on conservation, not preservation.

SENATOR KIEHL said he hopes the state's comments will also encourage the federal government to pursue the needs of Connecticut and Massachusetts for conservation because there are ecosystem services missing there that Alaska has.

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CHAIR REVAK said he agrees with Senator Stevens that the federal government will likely look at a map and identify Alaska as the low hanging fruit so the state should be prepared for that.

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CHAIR REVAK thanked Commissioner Vincent-Lang for his comments and perspective.

SB 101-ADVISORY COMMISSION ON FEDERAL MGT AREAS

[4:29:23 PM](#)

CHAIR REVAK announced the consideration of SENATE BILL NO. 101 "An Act extending the termination date of the Citizens' Advisory Commission on Federal Management Areas in Alaska; and providing for an effective date."

He described the legislation as an important affirmation of the compelling need to maintain the vital efforts of the Citizen's Advisory Commission on Federal Areas (CACFA). The bill extends the sunset date of the commission eight years, from June 30, 2021 to June 30, 2029, as recommended by the [Division of Legislative Audit] Report that was completed in 2020.

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BETTY TANGEMAN, Staff, Senator Joshua Revak, Alaska State Legislature, Juneau, Alaska, introduced SB 101, a committee

bill, on behalf of the Senate Resources Standing Committee. She paraphrased the following sponsor statement:

[Original punctuation provided.]

SB 101 is an important affirmation by the Alaska Legislature of the compelling need to maintain the vital efforts of the Citizens' Advisory Commission on Federal Management Areas in Alaska (CACFA). This bill extends this commission's sunset date from June 30, 2021 to June 30, 2029.

CACFA was first established in 1981, shortly after Congress passed comprehensive legislation governing all federal public lands in the state, the Alaska National Interest Lands Conservation Act (ANILCA). Under the balanced compromise Congress crafted in ANILCA, 104+million acres were set-aside in permanent federal ownership as conservation system units, -(e.g., parks, preserves, wildlife refuges, wilderness areas) with many unique provisions enabling Alaskan's to maintain their traditions and livelihoods, accommodating the States and ANCSA corporations' social and economic needs, safeguarding opportunities for responsible resource development, and facilitating improvements in transportation and utility infrastructure. Those provisions included opportunities for the State, its communities, and rural populations to access and develop inholdings, allotments, and adjacent lands; construct and maintain transportation and utility systems; access, manage, and use State lands and waterways; retain state management of fish and wildlife; and provide for access and necessary facilities on federal lands. Adding in the Alaska Statehood Act and Alaska Native Claims Settlement Act, most Alaskans and most of Alaska are regulated under an extremely unique and complex legislative web.

CACFA's mission is helping Alaskans navigate these complex rules and regulations and work with federal agencies to ensure Congressional intent is implemented with respect to their interests. As nationwide directives frequently ignore the Alaska context and balanced requirements in ANILCA, CACFA serves as a vigilant and knowledgeable resource for Alaskans to defend the rights and protections they were promised

as stakeholders. While the State's ANILCA program and CACFA both monitor federal actions, the State cannot represent individuals/businesses and CACFA cannot defend State agencies' authorities. As institutional memory and expertise is lost, and as agency decisions that revise our history and upend our reasonable expectations are deferred to by the courts, federal managers have little incentive to uphold Congress's promises to Alaskans. The *Sturgeon v Frost*, U.S. Supreme Court case, is an example of a private citizen's \$1.5 million battle against federal laws being enforced on state land. More recently, President Biden issued an Executive Order directing that at least 30% of our lands and waters be placed in permanent protection status by 2030 (30 by 30), placed a moratorium on new oil and gas leases and halted leasing in ANWR's 1002 area. These examples emphasize the need for vigilance to fight against the erosion of ANILCA protections by uninformed federal managers and politicians.

With federal land management policies increasingly at odds with Alaska's desire to access, manage, and sustainably develop its natural resources, CACFA is an essential tool in ensuring Alaskans have a strong and powerful voice. Over the 62 years since statehood, the federal government has consistently failed to keep its promises to honor the Alaska way of life. Now is not the time to allow CACFA to sunset. I urge you to join me in allowing CACFA to continue its important mission by passing SB 101.

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CHAIR REVAK asked Kris Curtis to go through the sunset audit.

[4:33:59 PM](#)

KRIS CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, Juneau, Alaska, stated that the division conducted a sunset audit of the Citizens' Advisory Commission on Federal Areas (CACFA). She advised that the purpose of a sunset audit is to determine whether a board or commission is serving the public's interest and whether its termination date should be extended.

MS. CURTIS directed attention to the April 2020 audit report in the bill packets. Starting on page one, she read the following:

CACFA is responsible for identifying and reducing potential negative impacts on Alaska and its citizens from federal actions on any of the over 200 million acres of federal land in the state. Per AS 41.37.220(a), the commission shall consider, research, and hold hearings on the consistency with federal law and congressional intent on management, operation, planning, development, and additions to federal management areas in the state. The commission may request the attorney general file suit against a federal official or agency if the commission determines that the federal official or agency is acting in violation of an Act of Congress, congressional intent, or the best interest of the state.

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MS. CURTIS reported that CACFA was active from 1981 until 1999 when its funding was eliminated. It was reestablished in 2007 and operated through FY 2017 when its funding was again eliminated. She said concerns over federal overreach and unfulfilled commitments led to CACFA being reestablished to advocate on behalf of Alaskans on issues related to federal management of Alaska lands.

MS. CURTIS turned to the report conclusions that start on page seven, and noted that the audit looks at the period of February 2015 through June 2017 when CACFA was defunded. She read the following finding:

Beginning in FY 17, funding CACFA has not been a priority. While not a consistent priority for either the governor or the legislature, both entities supported the commission at separate times. The legislature approved funding for the commission in FY 17; however, the governor vetoed the appropriation. Funding for the commission in FY 18 and FY 19 was not included in the governor's request, nor the final operating bills passed by the legislature. The legislature approved funding in FY 20, but the governor vetoed the appropriation. The governor's amended FY 21 budget included funds to restore CACFA in recognition of the continued need for the commission. The proposed funding was not included in the legislature's approved budget.

MS. CURTIS paraphrased the report conclusions that read as follows:

The audit concluded that, from the date of the prior audit in February 2015 through the time CACFA was defunded in June 2017, the commission operated effectively and did not significantly duplicate the efforts of other entities. During this period, the commission actively monitored the effects of federal regulation and management decisions in accordance with statutory duties. The audit also concluded that there is a continuing public need for the commission.

In accordance with AS 44.66.010(a)(10), the commission is scheduled to terminate June 30, 2021. We recommend the legislature extend the commission's termination date eight years, to June 30, 2029

MS. CURTIS stated that the division found that during the time that CACFA was active, the executive director monitored the Federal Register for new information related to CACFA's mission, provided comments on proposed changes, and brought relevant information to the commission's attention. If it was determined necessary, CACFA would send a formal comment letter to the appropriate federal agency to summarize their concerns with proposed management plans and changes to regulations and laws. CACFA sent 14 comment letters and testified four times from February 2015 through August 2016. When this commission was funded, it was very active.

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MS. CURTIS paraphrased the following to demonstrate that the commission was very active when it was funded:

According to a prior CACFA member, CACFA invited federal agencies to present information and discuss federal plans and policies via panel discussions to help facilitate communication between the public and state and federal agencies. Meetings generally lasted for one or two days and included multiple presentations from individuals representing federal agencies such as the U.S. National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and State agencies such as Department of Natural Resources (DNR) and Department of Fish and Game

Per the prior CACFA executive director, the director and staff assisted between 15 and 20 Alaska citizens at a time with issues related to federal land management by helping write complaints and requests for information, and guiding citizens to the appropriate agencies. In addition, staff accompanied citizens to permit and informational meetings to provide support and expertise.

[4:39:20 PM](#)

MS. CURTIS directed attention to the agency response on page 21. In that letter the commissioner of the Department of Natural Resources concurred with the recommendation to extend the commission's termination date eight years to June 30, 2029.

SENATOR KIEHL asked about the nature of the comments and testimony the commission submitted and whether it was on behalf of the State of Alaska.

MS. CURTIS replied the commission represents Alaska citizens so their efforts were generally to hold federal agencies accountable to the provisions and intent in ANILCA, ANCSA, and the Statehood Act.

SENATOR KIEHL asked if the commission was commenting on behalf of individual Alaskan applicants.

MS. CURTIS replied the commission is essentially a watchdog to ensure that federal actions comply with those Acts. She deferred further explanation to Legislative Auditor Danny Morse.

[4:40:47 PM](#)

DANIEL MORSE, Auditor, Division of Legislative Audit, Alaska State Legislature, Juneau, Alaska, said he would continue to look, but he had not identified any specific comment letters.

CHAIR REVAK asked Senator Kiehl to restate the question for CACFA commissioner Susan Smith.

SENATOR KIEHL asked if CACFA is speaking on behalf of individual permit applicants or the State of Alaska when it provides commentary to the federal government.

[4:41:53 PM](#)

SUSAN SMITH, Commission Member, Citizens' Advisory Commission on Federal Areas (CACFA), Chokosna, Alaska, explained that when CACFA received word that an individual had an issue with the

federal government, they would research the law and regulations to determine whether or not the individual was being treated properly. If the treatment was unfair, the commission would speak to the agency about the law or regulation that was being interpreted incorrectly.

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SENATOR BISHOP stated that the commission's primary mission is to help individual Alaskans navigate the complexities of federal bureaucracy and he could think of no more prominent example of that than the Sturgeon case.

CHAIR REVAK asked Tina Cunning to address some of the purposes of CACFA.

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TINA CUNNING, ANILCA Specialist, Anchorage, Alaska, suggested her brief testimony might clarify the question.

CHAIR REVAK asked her to proceed.

MS. CUNNING informed the committee that the legislature and the governor adopted the Alaska Position during the ANILCA debates in 1979, and one of the seven consensus points was the importance of retaining Alaskans' traditional way of life and uses on the lands. She said the legislation that originally created the Citizens' Advisory Commission on Federal Areas (CACFA) in 1981 was the brainchild of Senator Bettye Fahrenkamp. She had grown up around mining and was a staunch supporter of the miners and other Alaskans involved in resource development.

MS. CUNNING continued to provide the following background on ANILCA and the Citizen's Advisory Committee on Federal Areas:

Prior to being elected to the Senate in 1979, Bettye had served on the staff of U.S. Senator Mike Gravel in the previous two years in the negotiations leading up to the passage of ANILCA. She was convinced that Alaskans would, over time, lose their rights to access and uses of the lands and resources that were promised in ANILCA's compromise if a mechanism wasn't in place to involve and educate the public and represent the public in monitoring ANILCA's implementation by federal agencies. Her legislation to establish the citizen's advisory commission was landmark in its structural simplicity and its effectiveness at a relatively low cost.

Half the commission members are appointed by the governor and half are appointed by the legislature. In this way, bipartisanship was assured. The commission operated independently of the state agencies who were involved in implementation of ANILCA, whose primary responsibilities were to defend the state's responsibilities and authorities in some of those key provisions for state social and economic benefits.

I served as the first state ANILCA coordinator, setting up the ANILCA team in 1981. Then went on to represent ADF&G in that ANILCA program for nearly 30 years. More than once I was told by a political appointee in the administration that the state would not defend specific methods of access or other rights under ANILCA because the administration did not support those provisions in law.

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MS. CUNNING continued:

So thank heavens there was an independent commission that could operate independently, was not interfered by administration politics and able to defend individual all-Alaskans' rights as passed by Congress in ANILCA.

CACFA helps individual Alaskans deal with filling out their guide permit applications, for fulfilling their mining rights that they had prior to ANILCA, their property rights, access to their inholdings, and development of those individual inholdings.

One of the things that we in the state's ANILCA program learned early on, was that CACFA had their ear to the ground all over the state. They worked where individual federal managers were, for example, withholding permits for guiding because they were inappropriately granting more points to guides who practiced catch and release than those guides that allowed their clients to legally keep fish caught.

So while the state's ANILCA program vigorously defends the state's fisheries management authorities in federal plans and regulations, federal managers were applying their own values on individual Alaskans and

their individual business opportunities that CACFA could then step in and help resolve. CACFA pursued use of cabins for trapping, which is expressly authorized in ANILCA. But federal managers were destroying cabins. CACFA brought to light where federal managers were not allowing subsistence users to use traditional methods of access for subsistence. CACFA was able to enquire and resolve so that federal managers could not hold a vendetta against the individuals who had a complaint. The agency staffs couldn't and didn't have the resources to help individual Alaskans navigate the red tape of federal permitting or to hold hearings in rural areas where an agency was proposing to limit activities, whereas CACFA was authorized and had volunteers from around Alaska that served as those individual commissioners to pursue resolving those conflicts on behalf of individual Alaskans.

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MS. CUNNING continued:

It is only fitting that CACFA be reauthorized again to continue this valuable job 30 years after Bettye died. Her vision for a public forum to protect individual public rights to use the lands and resources that were legislated in ANILCA is needed as much today as perhaps ever.

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Let me share one last example. Last week the public comment period ended on national draft regulations proposed by the Fish and Wildlife Service regarding rights-of-way for inholdings and for developing transportation and utility infrastructure between communities. The regulations completely ignored ANILCA's provisions for a process to permit such infrastructure. Not one word. The complete ignoring of that right will have serious impacts on communities in rural Alaska, for development of the ANCSA corporation lands, as well as the state lands. And I'm a person who monitors this stuff fairly closely and I didn't even hear these regulations were out till the last minute. Without CACFA, there was no information or effort to educate the affected Native corporations, the communities, or other interests. The state wrote an excellent letter, but no one else even begins to understand the impacts in Alaska if those regulations

are allowed to be finalized as written, particularly the impacts on individuals.

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CHAIR REVAK described ANILCA as a very complicated law. He commented that it has been 41 years and the federal government has yet to figure out the locations of navigable waters. He expressed appreciation for her comments and said he understands the value of CACFA.

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CHAIR REVAK opened public testimony on SB 101.

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STAN LEAPHART, representing self, Fairbanks, Alaska, disclosed that he worked for the Citizen's Advisory Committee on Federal Areas from August 1982 until July 1999 and 2007 to 2014. He was also a member of the Alaska State Lands Advisory Group that advised the commission on issues important to the public.

MR. LEAPHART said Senator Fahrenkamp's thinking in creating the commission was how would ANILCA be implemented in a way that protects Alaskans' traditional use of the federal lands because they are essential to Alaskans to use for hunting, fishing, and resource development. For ten years after passage of this unprecedented piece of legislation there were management plans were being written by various federal agencies and regulations promulgated. The public was overwhelmed because most people had never looked at either proposed federal regulations for implementing a statute or an environmental impact statement (EIS). CACFA saw its job as trying to help the public do this. In addition to the regularly scheduled commission meetings where CACFA took testimony from the public, they sponsored public meetings around the state. For example, the National Park Service in the late '80s held three public meetings in urban areas on proposed regulations to regulate the use and construction of cabins in national parks. CASFCA thought that was inadequate so it held additional public meetings.

CHAIR REVAK asked, in the interest of time, if he would conclude his comments.

MR. LEAPHART urged the committee to support and pass SB 101 because CACFA serves a purpose that no other state agency fulfills. It is a useful tool for the citizens and the State of Alaska itself.

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JOHN STURGEON, representative, Safari Club International Alaska Chapter (AK SCI), Anchorage, Alaska, related that this club advocates for hunters, promotes conservation based on science, promotes hunting and conservation education, and sponsors humanitarian programs such as Wounded Warriors on Safari. He stated that AK SCI adamantly supports SB 101 to reauthorize CACFA; it does what the average citizen is unable to do. The federal government promulgates a large variety of land use plans and regulations and CACFA does a very good job of tracking these where it is nearly impossible for a private citizen to do so. He concluded his comments by restating that Safari Club International Alaska Chapter supports passage of SB 101.

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CHAIR REVAK closed public testimony on SB 101, and asked if there were questions or comments.

[4:56:50 PM](#)

SENATOR KAWASAKI commented that it was unusual to see a zero fiscal note for an extension of a board or commission. He questioned whether authorizing the extension without the money to do the job might be setting CACFA up for failure.

CHAIR REVAK noted that a member of the finance committee was on this committee.

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CHAIR REVAK reconvened the meeting and stated that Senator Kawasaki brought up an important point and he would hold SB 101 so the committee could look into the lack of funding for this commission.

[4:59:01 PM](#)

There being no further business to come before the committee, Chair Revak adjourned the Senate Resources Standing Committee meeting at 4:59 p.m.