

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

April 25, 2022

3:35 p.m.

MEMBERS PRESENT

Senator Peter Micciche, Vice Chair
Senator Gary Stevens
Senator Natasha von Imhof
Senator Jesse Kiehl
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Joshua Revak, Chair
Senator Click Bishop

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commercial Fisheries Entry Commission
Glenn Haight - Juneau

- CONFIRMATION ADVANCED

SENATE BILL NO. 133

"An Act relating to the sale or lease of state land for remote recreational sites; relating to permits for remote recreational sites; and providing for an effective date."

- MOVED SB 133 OUT OF COMMITTEE

SENATE BILL NO. 229

"An Act relating to misconduct involving confidential information; relating to artifacts of the state; and relating to penalties regarding artifacts or historic, prehistoric, or archeological resources of the state."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 133

SHORT TITLE: REMOTE RECREATIONAL SITES; SALES; PERMITS
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/28/21 (S) READ THE FIRST TIME - REFERRALS
04/28/21 (S) RES, FIN
04/28/21 (S) RES AT 3:30 PM BUTROVICH 205
04/28/21 (S) -- MEETING CANCELED --
05/05/21 (S) RES AT 3:30 PM BUTROVICH 205
05/05/21 (S) Heard & Held
05/05/21 (S) MINUTE(RES)
01/31/22 (S) RES AT 3:30 PM BUTROVICH 205
01/31/22 (S) Heard & Held
01/31/22 (S) MINUTE(RES)
04/25/22 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 229

SHORT TITLE: STATE HISTORICAL ARTIFACTS; CRIMES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/11/22 (S) READ THE FIRST TIME - REFERRALS
03/11/22 (S) JUD, RES
03/23/22 (S) JUD AT 1:30 PM BUTROVICH 205
03/23/22 (S) <Bill Hearing Canceled>
04/06/22 (S) JUD AT 1:30 PM BUTROVICH 205
04/06/22 (S) Heard & Held
04/06/22 (S) MINUTE(JUD)
04/08/22 (S) JUD AT 1:30 PM BUTROVICH 205
04/08/22 (S) Heard & Held
04/08/22 (S) MINUTE(JUD)
04/11/22 (S) JUD AT 1:30 PM BUTROVICH 205
04/11/22 (S) Moved CSSB 229(JUD) Out of Committee
04/11/22 (S) MINUTE(JUD)
04/12/22 (S) JUD RPT CS 3DP 2NR NEW TITLE
04/12/22 (S) DP: HOLLAND, SHOWER, KIEHL
04/12/22 (S) NR: MYERS, HUGHES
04/22/22 (S) RES AT 3:30 PM BUTROVICH 205
04/22/22 (S) -- MEETING CANCELED --
04/25/22 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

GLENN HAIGHT, Appointee
Commercial Fisheries Entry Commission
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Commercial Fisheries Entry Commission.

TRACY WELCH, Executive Director
United Fishermen of Alaska (UFA)
Petersburg, Alaska

POSITION STATEMENT: Testified in support of the appointment of Glenn Haight to the Commercial Fisheries Entry Commission.

GARY HOLLIER, representing self
Kenai, Alaska

POSITION STATEMENT: Testified in support of Glenn Haight to the Commercial Fisheries Entry Commission.

CHRISTY COLLES, Chief of Operations
Division of Mining, Land, and Water
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Presented SB 133 on behalf of the administration.

RICKY GEASE, Director
Division of Parks and Outdoor Recreation
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Reviewed the division's role in administering the programs in the Alaska Historic Preservation Act during the hearing on SB 229.

JUDY BITTNER, Chief
History & Archaeology/State Historic Preservation Officer
Office of History & Archaeology
Alaska Historical Commission
Division of Parks and Outdoor Recreation
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Presented the sectional analysis and changes in the committee substitute for SB 229, from Version W to Version O.

CHRISTOPHER ORMAN, Assistant Attorney General
Natural Resources Section
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 229.

ACTION NARRATIVE

[3:35:21 PM](#)

VICE CHAIR MICCICHE called the Senate Resources Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Kiehl, Stevens, Kawasaki, von Imhof, and Vice Chair Micciche.

CONFIRMATION HEARING(S)

Commercial Fisheries Entry Commission

[3:36:17 PM](#)

VICE CHAIR MICCICHE announced consideration of the governor's appointee(s) to the Commercial Fisheries Entry Commission.

[3:36:36 PM](#)

GLENN HAIGHT, Appointee, Commercial Fisheries Entry Commission, Alaska Department of Fish & Game, Juneau, Alaska, stated that he is a lifelong Alaskan. He holds a bachelor's degree in Business Administration from the University of New Mexico and a Master's in International Management from the Thunderbird School of Global Management at the University of Arizona.

MR. HAIGHT provided his work experience. He stated that he worked for the Department of Community and Regional Affairs in 1995, overseeing the Western Alaska Community Development Program (CDQ), an offshore groundfish and crab economic development program. He said he helped review investment decisions, made allocation decisions, and advocated for the program.

MR. HAIGHT stated that he worked for the Department of Commerce, Community and Economic Development (DCCED) as a fisheries development specialist from 2001 to 2007, focusing primarily on salmon. He noted that farmed salmon was starting to dominate the market at the time. He said he worked on program development, conducted outreach, and worked collaboratively on fisheries issues.

MR. HAIGHT related that he worked as a research assistant for the Alaska Sea Grant Marine Advisory program at the University of Alaska Fairbanks from 2007 to 2011, helping to coordinate a fisheries business program. He returned to the Department of Commerce, Community and Economic Development (DCCED) in 2011, managing a team of development specialists.

MR. HAIGHT stated that he currently serves as the executive director of the Board of Fisheries, administering the fisheries regulatory process, working with agencies, the public, and the legislature on Board of Fisheries issues.

[3:39:11 PM](#)

MR. HAIGHT stated that his work history had familiarized him with all of Alaska's commercial fisheries, macroeconomics and microeconomics of fisheries. He said he had developed industry and local government contacts related to fisheries policies.

MR. HAIGHT highlighted that his management style leans towards collaboration and communication, and he has a program development and implementation background. He said he favors developing good processes to guide an organization.

[3:40:18 PM](#)

MR. HAIGHT related his understanding that there has been discussion about what a CFEC commissioner does. He noted that 6 of 19 CFEC positions are vacant, and his priority would be to fill those positions by the end of June 2022. Although CFEC's caseload has diminished, appeals to decisions, license fee modifications, and requests to limit fisheries and conduct studies will continue. Besides studying statutes, regulations, court cases, and internal policies, he plans to review the Cook Inlet Setnet Study and provide the public with information by the end of the year. DCEC must inform the public about the steps it will take to pursue any permits.

MR. HAIGHT emphasized the importance of public outreach, engaging in forums with the commercial fleet and local government.

MR. HAIGHT characterized CFEC's role as one that has transformed since the 1970s. It created stability in the commercial fishing fleet by creating a professional class of fishermen. He highlighted several areas that need to be addressed, including the out flight of permits held by Alaskans. He pointed out that the commercial fishing fleet workforce was aging.

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MR. HAIGHT offered his view that the industry needs to reinvent itself. He viewed CFEC as the gatekeeper into the industry. He would like to have young people to come in, be competitive, and earn a good retirement.

[3:43:51 PM](#)

SENATOR STEVENS remarked that he was qualified to serve, given his experience. He commented that many people came to Alaska in the 1970s and were successful fishermen. He expressed concern that it's expensive to participate in commercial fishing because it requires a significant investment. He asked what ideas he had to get young people involved in the fishing industry.

MR. HAIGHT stated that besides needing to buy a boat and gear, the permits and IFQ are expensive. He suggested that perhaps the state could develop programs that allow for transfer plans, similar to how it is done in farming. He was unsure of all of the solutions and whether something more could be done regarding DCCED's loan program, but he said he was interested in exploring it. He commented that the average age for the fishing fleet has increased from 41 to 52. He remarked that it might be possible to find a better range so people who have been at it a long time would be able to sell their assets.

SENATOR STEVENS responded that high school graduates don't have many opportunities in commercial fishing unless they inherit something from their parents. He said that anything he could do in that regard would provide an advantage to the communities.

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SENATOR KIEHL asked for the size and scope of the significant decrease in the adjudications. He said from its inception to a year ago, CFEC always had at least one attorney serving as commissioner to help with quasi-judicial proceedings. He noted that he had a significant fisheries background but not a legal one. He asked how that would work for CFEC.

MR. HAIGHT answered that in terms of the adjudication backlog, CFEC had done an excellent job. He recalled that only 30 of the 1,800 cases that went to a hearing officer were appealed to the commission. He acknowledged that the commissioners had other functions, but he agreed commissioners handle many fewer cases, so he would need to see what takes its place. He offered his view that the commission had the talent and resources to help guide the commissioners through any legal matters, including the Department of Law. He agreed he does not have the legal expertise and is not an attorney but noted that he was familiar with the policies and legal precedent.

[3:48:43 PM](#)

SENATOR MICCICHE commented that he brought up an interesting Cook Inlet study, which was an optimizing fishery values study in Cook Inlet. Unfortunately, the way the statutes are written,

it is impossible to produce an optimization study with any value. The Cook Inlet fisheries cover an area the size of Rhode Island. Still, the only area with an optimization problem is less than the square mileage of the Municipality of Anchorage. He offered his view that CFEC will have to consider the issue as larger populations of Alaskans expect larger shares of the resource previously taken by commercial fisheries. He wondered if he was willing to look at dividing an administrative area if he had statutory authority to do so. He added that more issues similar to this would arise. He pointed out that Bristol Bay has massive returns, but at the same time, it goes unnoticed that the quantity of lodges continues to increase. He asked whether he would be willing to evaluate this going forward so that optimization studies could improve the outcome in the future.

MR. HAIGHT answered that he had a chance to review the bill. He agreed that the allocation issues would not be limited to Cook Inlet. He pointed out that the Board of Fisheries assigned a subcommittee to consider whether the number of sport fish operators in the Naknek River was appropriate. He agreed that an optimal number study wasn't effective, noting that one done in the Bristol Bay drift fishery determined the optimal numbers were between 800 and 1300. However, he said a range of 500 does not provide anything meaningful. He said that he thought what he was saying was to review a smaller geographic area, which might make sense.

[3:51:53 PM](#)

SENATOR MICCICHE opened public testimony on Glenn Haight, appointee to the Commercial Entry Fisheries Commission.

[3:52:25 PM](#)

TRACY WELCH, Executive Director, United Fishermen of Alaska (UFA), Petersburg, Alaska, stated that UFA is a statewide commercial fishing trade association representing 37 commercial fishing organizations throughout the state and the federal fisheries off the coast of Alaska.

MS. WELCH spoke in support of the confirmation of Glenn Haight as commissioner of the Commercial Fisheries Entry Commission. Mr. Haight has worked in various fisheries development and natural resource policy-related roles dating to the mid-90s. His most recent roles include serving as the development manager for the Department of Commerce, Community and Economic Development (DCCED) and as the Alaska Board of Fisheries executive director. These administrative roles have allowed him to grow his leadership and communication skills.

MS. WELCH stated that in addition to Mr. Haight's proven track record of success in administrative roles, he knows the different fisheries of the state. As the executive director of the Board of Fisheries, he has had a front-row seat in many fisheries throughout the state. She said his familiarity with current fisheries matters would be helpful when tackling issues before CFEC. He is well positioned to be an effective leader and an asset at CFEC. Not only does he possess the proper education and work experience necessary to succeed in the management aspects of CFEC's commissioner role, his familiarity and history with fisheries issues and his demonstrated ability to work with the public make him a well-rounded candidate. For these reasons, UFA supports the confirmation of Glenn Haight for CFEC.

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GARY HOLLIER, representing self, Kenai, Alaska, testified in support of Glenn Haight to the Commercial Fisheries Entry Commission. He stated that he has worked for over 50 years as an east side Cook Inlet commercial fishing setnetter. Thus, he has dealt with CFEC for many years. He stated that he received an original limited entry permit. He has dealt with Mr. Haight on fisheries issues related to the Board of Fisheries. He said Mr. Haight has always been very responsive in providing information and data. He offered his belief that he would be a good CFEC commissioner.

MR. HOLLIER agreed that the optimization studies done in Cook Inlet are worthless. He offered his view that Mr. Haight would be able to "think outside of the box." He said he gives 100 percent endorsement for his appointment to CFEC. He characterized him as "top shelf."

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VICE CHAIR MICCICHE closed public testimony on the confirmation hearing for Glenn Haight as commissioner to the Commercial Fisheries Entry Commission.

[3:55:36 PM](#)

SENATOR STEVENS stated that in accordance with AS 39.05.080, the Senate Resources Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Commercial Fisheries Entry Commission
Glenn Haight - Juneau

[Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.]

[3:56:05 PM](#)

At ease

SB 133-REMOTE RECREATIONAL SITES; SALES; PERMITS

[3:56:12 PM](#)

VICE CHAIR MICCICHE announced the consideration of SENATE BILL NO. 133 "An Act relating to the sale or lease of state land for remote recreational sites; relating to permits for remote recreational sites; and providing for an effective date."

He noted that this was the third hearing in this committee, the second this session.

[3:57:47 PM](#)

CHRISTY COLLES, Chief of Operations, Division of Mining, Land, and Water, Department of Natural Resources, Anchorage, Alaska, stated that SB 133 would allow the department to offer state land for recreational purposes. It would amend portions of the existing Remote Recreational Cabin Staking Program statutes to increase opportunities for Alaska residents to identify a remote cabin site. It does this by expanding the pool of land where a person can nominate a staking site to include existing lands classified as settlements and all vacant, unappropriated or unreserved land.

MS. COLLES stated that it would also prescribe a process to be followed by the public and agency when adjudicating a nomination to lease, purchase, or permit state land for a recreational place. The bill would provide the commissioner authority to identify areas where land is properly classified as recreational sites suitable for disposal as remote sites and offer those lands for staking. It would also allow Alaskans to nominate land for disposal and establish a 10-acre parcel that may be staked by an eligible participant while requiring specific information for identifying the staked parcels.

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MS. COLLES stated that the commissioner could then approve such disposals at their discretion without a written best interest finding. SB 133 directs the commissioner to establish

regulations to implement the program. This process requires the applicant to survey and appraise the site, and for the commissioner to set the sales price at fair market value.

MS. COLLES indicated that the next component of the bill would establish a process for leasing a remote recreational site. This process would provide a timeframe for surveying and appraising sites as well as a requirement for marking parcel boundaries and allows for an initial 10-year leasing term and two additional 10-year leasing periods while restricting some of the assignments or leasing and allowing for termination of a lease for non-compliance. She stated that this would be a step someone could take. The last component of the bill would enable the department to issue a recreational site permit for up to 20 years. This process would allow the commissioner to revoke permits or terminate them for any reason. Still, the department would need to adopt regulations to specify lands eligible for a remote recreational site. Permit holders could apply to lease or purchase the permanent site during their 25-year permit term.

[4:00:47 PM](#)

SENATOR STEVENS related his understanding that this would not prevent development, but it would require the applicant to build a remote cabin. He asked what requirements someone who obtains the property must comply with.

MS. COLLES answered that the department does not require an applicant to prove up by building a cabin or structure. It was more about having the property surveyed, appraised, and signing a contract. One provision in the bill would allow the state to issue a contract for 30 years instead of 20 years.

[4:01:48 PM](#)

SENATOR KIEHL raised questions from a previous meeting. He recalled that one question was the historic average parcel size for this type of land disposal. He asked whether there was a public notice when a parcel transitions from being permitted to being leased.

VICE CHAIR MICCICHE asked for a copy of the letter from DNR for Senator Kiehl.

[4:02:44 PM](#)

At ease

[4:03:48 PM](#)

VICE CHAIR MICCICHE reconvened the meeting.

[4:03:59 PM](#)

MS. COLLES answered that since 2001, 807 of the 937 parcels were purchased, totaling 10,655 acres. The average parcel size was 13.2 acres. She said if a site were nominated, it would go through the leasing and sales provisions. She stated that it would go through the public noticing if the land was not properly classified, so it depends on the classification of the land. The commissioner's list of lands that could be sold or leased is exempt from the best interest finding, but it would not prevent the department from public noticing.

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SENATOR KAWASAKI asked whether the remote recreational site updates some existing language to include settlements. He wondered how much extra land the term "settlements" would consist of and whether it would double or triple the total amount authorized under the current cabin staking program.

MS. COLLES answered that she was unsure whether it would double it. Still, the current remote recreational cabin staking program might consist of 10,000 acres, but the department would only allow 100 people to stake a maximum of 20 acres within the area. She said the department would limit the number of people who could stake in that area. This would open it up to any settlement lands or vacant, unappropriated, or reserved land. She stated that the department had not completely calculated the amount of land, but she offered to provide it. She envisioned that the department could increase the number of people who could go out and stake a parcel. She explained that currently, the department would write a decision for a specific area with a maximum number of people who could stake in that area.

[4:07:05 PM](#)

SENATOR KAWASAKI related his understanding that the department was unclear about how much larger the settlement land or the vacant, unappropriated land was compared to the current size of the staking program.

MS. COLLES responded that she did not have those figures in front of her today. She offered to provide the information to the committee.

[4:07:32 PM](#)

SENATOR KAWASAKI pointed out the department had several staking programs, including one for personal use cabins for approximately 150 families dating back to the 1950s, a trapping

cabin permit program, and the remote recreational cabin sites. He indicated that the programs were complicated because the staking programs had different rules. He wondered whether there was a way to consider the staking programs collectively rather than having programs that overlap.

MS. COLLES agreed that the department had multiple types of cabin programs. She related that Senator Micciche's bill regarding the Personal Use Cabin Permit (PUCP) program refers to cabins built on state land for recreational purposes without proper authorization. In the 1980s, the department developed a permitting program to address these recreational cabins, but it prohibited anyone from building a personal use structure. She related that the PUCP program would sunset because it disallows the transfer of properties.

MS. COLLES stated that SB 133 would open the permitting process to the general public to obtain recreational property. It would also allow PUCP holders to apply for a 25-year permit and, if appropriate, move to a lease or purchase. She explained that the trapping cabin permits were developed in the 1980s solely for the commercial trapping community and included reduced fees to allow trappers to live a certain quality of life. She acknowledged that the department has numerous programs, but they all have different purposes. She said most are for commercial purposes, but SB 133 is more specific to personal recreational use.

[4:10:38 PM](#)

SENATOR KAWASAKI recalled discovering that the remote recreational cabin staking was fairly prescriptive when he worked on a similar bill. He related his understanding that DNR established rules for people staking land in remote, vacant, or unappropriated areas because the department might discover later that the staked land had affected the rights-of-way for nearby gas or oil leases or within an RS2477 right-of-way. If so, the cabin might need to be destroyed. He asked whether that could happen given the department's rules to establish which lands are available for the existing remote recreational cabin staking program.

MS. COLLES responded that was why the department would consider lands classified as settlement lands or vacant and unappropriated land. She stated that lands with a mineral classification would not be included in the commissioner's list of available lands. Further, the department would adopt regulations to consider RS2477 and other easements. For

instance, if someone wanted to nominate or develop land in an area, the department would have to perform its due diligence to ensure there were no conflicts or better use for the state. She stated that would be part of the adjudication process. The same thing would be valid for existing personal use cabins. They may qualify for nominating, but some cabins are in legislatively-designated areas, so the department cannot dispose of the land due to their classification.

[4:13:15 PM](#)

SENATOR KIEHL recalled that this bill would allow the commissioner to reclassify any land. He asked what would prevent a future commissioner from reclassifying mineral land.

MS. COLLES responded that the department has a statutory process for reclassifying land. She related that it would require a very prescriptive finding under AS 38.05.945. Thus, if lands are not correctly classified, the department would go through the reclassification process, including public noticing and agency noticing, and be subject to an appeal.

[4:14:48 PM](#)

SENATOR KIEHL pointed out that she had referred to AS 38.05.945, but the bill references reclassification under AS 38.04.065 and 38.05.300. He asked how these processes differ.

MS. COLLES answered you are correct. She explained that those classification statutes reference AS 38.05.945.

[4:15:38 PM](#)

SENATOR KIEHL offered his view that this program is fraught with issues and is not popular, noting that the department has issued approximately 37 permits yearly since 2001. He compared that to DNR's program, which is not a staking program, where the department selects land, subdivides it, plats, surveys, and records it. DNR uses several sales mechanisms to sell the land to Alaskans. He said the program does not have a 14 percent failure rate like the staking programs. He recalled that the department sells 200 parcels per year under that program, which demonstrates how popular that program is to Alaskans. He said that in keeping with the administration's goal to keep more land in private ownership, a more productive approach would be for the department to create cabin subdivisions and sell them. He offered that doing so would avoid endless reclassification applications, controversies about recreational land classification, habitat land, or future use by non-cabin purposes, and removing the prove-up requirement. He wondered if

it would be more productive for DNR to create cabin subdivisions and sell them.

[4:17:52 PM](#)

SENATOR MICCICHE suggested that each program had different purposes and that some DNR programs may not be popular in Southeast Alaska. He indicated that he had participated in staking programs and had found them quite popular in some areas of the state. He asked what the department's rationale was for some programs and why some might be more attractive than others.

[4:18:47 PM](#)

MS. COLLES responded that the department created programs for different purposes. For example, the subdivision sales have a shared lot line. The Remote Recreational Sites do not have road access and must be accessed by planes, ATVs, or snowmachines. She related that those are auctioned with a minimum bid. They are typically more expensive than the remote recreational cabin staking sites. She offered her view that the difference relates to the nomination. She suggested that the department would have more success with individuals contacting DNR who want to locate their recreational site in a specific area. Currently, it is possible to nominate land, but it is not at the same level as this program. This program would provide a solid path for those seeking to establish a site, not just through lease or sale, but by permit. She characterized it as similar to the PUCP, which is no longer available. She explained that people might want to think about where to purchase land, and the program provides another way to decide if the location is an area they are interested in purchasing.

[4:21:02 PM](#)

SENATOR KIEHL responded that it is a little incongruous to point to the necessity of staking for the more remote areas when SB 133 removes any such requirement.

[4:21:28 PM](#)

At ease

[4:21:42 PM](#)

VICE CHAIR MICCICHE reconvened the meeting and solicited the will of the committee.

[4:21:48 PM](#)

SENATOR STEVENS moved to report SB 133, work order 32-GS1026\A, from committee with individual recommendations and attached fiscal note(s).

VICE CHAIR MICCICHE found no objection, and SB 133 was reported from the Senate Resources Standing Committee.

[4:22:13 PM](#)

At ease

SB 229-STATE HISTORICAL ARTIFACTS; CRIMES

[4:24:38 PM](#)

CHAIR REVAK reconvened the meeting and announced the consideration of SENATE BILL NO. 229 "An Act relating to misconduct involving confidential information; relating to artifacts of the state; and relating to penalties regarding artifacts or historic, prehistoric, or archeological resources of the state."

[CSSB 229(JUD) was before the committee.]

[4:25:40 PM](#)

RICKY GEASE, Director, Division of Parks and Outdoor Recreation, Department of Natural Resources, Anchorage, Alaska, stated that the Office of History & Archaeology, Division of Parks and Outdoor Recreation are responsible for administering the programs in the Alaska Historic Preservation Act. He related that SB 229, also known as the artifacts bill would amend the Alaska Historic Preservation Act and the criminal code to provide protections for historic artifacts through increased penalties for violations of the act. He said a class C felony was added as a penalty for a person who, without a permit, intentionally excavates artifacts from a site with the intent to sell, but other offenses remain a class A misdemeanor. The bill amends the civil penalty section by adding a provision for restitution for damaged and vandalized sites. The department's goal is to protect Alaska's heritage resources. He offered his view that the bill would act as a deterrent for unauthorized actions.

[4:27:20 PM](#)

JUDY BITTNER, Chief, History & Archaeology/State Historic Preservation Officer, Office of History & Archaeology, Alaska Historical Commission, Division of Parks and Outdoor Recreation, Department of Natural Resources, Anchorage, Alaska, presented the committee substitute (CS) for SB 229. She paraphrased remarks, which read:

[Original punctuation provided.]

The committee substitute is a complete re-do of the bill. A primary intent of the bill is to enhance protections for historic and archaeological sites through increased criminal penalties for violations of the Alaska Historic Preservation Act.

Earlier versions of the bill relied on market value of artifacts to distinguish between a felony and a misdemeanor. Instead of market value of looted artifacts, this bill focuses on violations of the Alaska Historic Preservation Act and the level of loss of scientific information caused by violations of the Act through intentional actions and the intent to sell artifacts.

This orientation of the bill fits more closely with the policy of the Alaska Historic Preservation Act. The first sentence of the Alaska Historic Preservation Act reads: It is the policy of the state to preserve and protect the historic, prehistoric, and archaeological resources of Alaska from loss, desecration and destruction so the scientific, historic and cultural heritage embodied in these resources may pass undiminished to future generations.

[4:29:08 PM](#)

Unauthorized excavation and damage to historic or archaeological resources destroys the context of the scientific information contained within that unique site. Most of the information archaeologists recover from a site is in the stratigraphic position of the artifacts and features. Also, the position of features and artifacts to one another is critical to understanding a site. If a hearth with charcoal is found within a site, the charcoal can be dated. Artifacts associated with the hearth, or in a layer above or below the hearth can help date and define distinct cultural eras.

Unauthorized excavation in search of artifacts would dig right through a hearth feature. That information is lost forever, once it is disturbed and out of context.

[4:30:09 PM](#)

In the committee substitute a distinction is made at the penalty level between site disturbance and the

more casual surface collection of artifacts. Removal of artifacts from a site without a permit with no ground or site disturbance is a misdemeanor. Intentional excavation, damage, destruction, or injury to a site is a class C felony. Also, possessing artifacts in violation of the Act with the intent to sell is a class C felony.

Also, in the committee substitute is a provision added to the civil penalties section that allows for restitution for damaged or vandalized sites. Remediation or restoration of a damaged site can take place by order of the court.

[4:31:14 PM](#)

SENATOR STEVENS remarked about the numerous archeologists that have come to Alaska and acknowledged that Alaska's artifacts have ended up all around the world in strange places. He wondered how the department authorizes anthropologists to do their work without damage to the site.

MS. BITTNER responded that the department authorizes archeologists to work by issuing a state cultural resources permit. The permit questions are research related, about the type of information that the scientist will gather, the extent of the excavation, and it would require a report. The person must meet professional qualification standards, which are done through the permitting process.

[4:32:50 PM](#)

SENATOR STEVENS wondered whether excavated artifacts, such as Native masks, would belong to the state and if they could be removed and taken out of state or out of the country.

MS. BITTNER answered that a portion of the permit contains a curation provision. Artifacts and materials removed from the state belong to the State of Alaska. The division requires that the artifacts be curated in a state repository. Thus, those artifacts would go to the museum at the University of Alaska Fairbanks or the Alaska State Museum in Juneau for long-term management. If someone wanted to borrow or obtain the artifacts on loan, they would work with the museum institution.

[4:34:21 PM](#)

SENATOR STEVENS thanked her for her years of dedication to the state.

[4:34:27 PM](#)

SENATOR KAWASAKI asked whether the permit for an archeology dig would be issued as an inclusive permit or for a specific object.

MS. BITTNER answered that the division would typically issue the permit for a specific site. The artifacts are a portion of the site. She characterized the archeological site as a three-dimensional puzzle, and the artifacts are one aspect of it. The archeologist must have a purpose, such as studying subsistence practices. The permit requires the researcher to have a scientific purpose that must also benefit the state to be considered well-reasoned research. Suppose the office does not find that the applicant had an adequate reason to conduct the research, including benefits to the public. In that case, the department has the discretion to deny the permit for excavating a site.

[4:36:40 PM](#)

SENATOR KAWASAKI related a scenario when he was a Boy Scout, where he and another scout canoed on the Chena River and his friend pulled a mastodon tusk from a shallow spot. He asked whether that was illegal.

MS. BITTNER answered yes, that would be illegal. She advised that the Alaska Preservation Act requires a permit to collect fossils. She stated that any fossils, including mastodon tusks, belong to the state. She acknowledged that it is hard to police that activity, but the department would ask the finder to turn the fossil over to the state when it is reported. She stated that it would not be considered an intentional act but one that the person committed without knowing the Alaska Historic Preservation provisions.

[4:38:16 PM](#)

SENATOR KAWASAKI commented that placer miners sometimes find fossils. He asked whether the miner would be covered under the self-reporting process. He wondered whether the miner would be required to pay for damage if the fossil was damaged.

MS. BITTNER responded that the placer miner should set it aside and report it to DNR.

SENATOR KAWASAKI asked if the current statute for criminal penalties has ever been exercised.

MS. BITTNER answered that DNR had had some joint exercises with law enforcement. She recalled a recent one in Fairbanks, where

some artifacts had been collected from state and federal land that was recovered. It does not happen often, but it does happen.

[4:40:38 PM](#)

VICE CHAIR MICCICHE stated that the transmittal letter states, "Under the Alaska Historic Preservation Act currently, the word artifact is not defined. This bill defines artifact." He asked for the bill reference that defines artifact.

MS. BITTNER answered that the committee substitute (CS) for SB 229, Version O does not have the definition for artifact. The definition of "historic, prehistoric, and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state.

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VICE CHAIR MICCICHE cautioned that the committee had not yet adopted a committee substitute (CS) for SB 229.

VICE CHAIR MICCICHE solicited a motion.

[4:42:02 PM](#)

SENATOR STEVENS moved to adopt the committee substitute (CS) for SB 229, work order 32-GS2541\O, as a working document.

VICE CHAIR MICCICHE objected for discussion purposes.

[4:42:39 PM](#)

At ease

[4:42:55 PM](#)

VICE CHAIR MICCICHE reconvened the meeting and invited Ms. Bittner to give the explanation of changes.

MS. BITTNER paraphrased the explanation of the changes from Version G to Version O which read:

This bill increases penalties for certain offenses involving artifacts and adds additional civil sanctions for those who violate the Alaska Historic Preservation Act.

Section 1

Section 1 amends the "Unlawful Acts" section to make it a criminal felony for anyone - without a permit - to intentionally harm or destroy a historic, prehistoric or archaeological resources.

Section 2

Section 2 amends the "Unlawful Acts" section to make it a criminal felony for anyone to possess with the intent to sell, or offer to sell a historic, prehistoric, or archaeological resource acquired in violation of the Alaska Historic Preservation Act.

Section 3

Section 3 adds four new subsections to the "Unlawful Acts" section.

Subsection (e) and (f) makes it a criminal misdemeanor for anyone to knowingly possess or remove a historic, prehistoric, or archaeological resource taken in violation of the Alaska Historic Preservation Act.

Subsections (g) affirms that the offenses under sections 1 and 2 are class C felonies.

Subsection (h) defines "knowingly" and "intentionally" by referring to the definitions in the Alaska criminal statutes.

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Section 4

Section 4 amends the "Criminal penalties" section to note that violations of the Alaska Historic Preservation Act not included in Sections 1 and 2 are misdemeanors.

Section 5

Section 5 adds a new subsection that notes where the Alaska Historic Preservation Act statutes are silent on the mental state for a criminal offense, the mental state will be determined based on AS 11.81.610(b).

[4:45:16 PM](#)

Section 6

Section 6 amends the "Civil penalties" section by adding a provision for restitution for damaged or vandalized sites. The court can order remediation or restoration of historic, prehistoric, and archaeological sites that have been excavated,

damaged, defaced, injured or destroyed in violation of the Alaska Historic Preservation Act.

Section 7

Section 7 adds a section to the uncodified law consistent with State law that the criminal offenses and penalties provided in this Act may be charged only after the Act's effective date. (Note: word "committee" should be "committed")

Section 8 notes the Act's effective date is July 1, 2022.

[4:46:16 PM](#)

SENATOR KIEHL commented that the committee substitute (CS), Version O, would significantly broaden the items and expand the felony provisions from Version W. The previous committee, the Senate Judiciary Committee, considered the penalty provisions. He asked for the justification for making it a penalty to sell any historical or natural artifact, regardless of its value. He acknowledged the importance of protecting valuable historic sites, Alaska Native relics, and a mastodon tusk. However, this would include railroad ties and old tiles. He wondered why the division made that change from Version W.

[4:47:45 PM](#)

MS. BITTNER answered that the intent was an attempt to address the behavior of collecting and destroying the site. She stated that social media has identified that many people use metal detectors to locate and subsequently dig up artifacts and sell them. She noted that the two behaviors together destroy Alaska's resources.

[4:48:39 PM](#)

VICE CHAIR MICCICHE stated that he needs to understand the bill better. He said Version O seemed to take a very heavy-handed approach. He expressed concerns that his 12-year-old daughter would be going to prison for a long time. He stated that it was not clear what the bill addresses. He offered his view that every Alaskan family has a little pile of things they have found. He acknowledged that vandalism was problematic.

[4:49:50 PM](#)

SENATOR KAWASAKI agreed. He noted that the term "historic" was used in several sections of the bill, including the class C felony. He wondered what would be considered historic. For instance, numerous railroad spikes can be found at the old

railway between the Kennecott Mine and Cordova. He asked whether that was considered historic. He wondered whether a person could be charged for possessing railroad spikes.

[4:50:56 PM](#)

MS. BITTNER answered that the Alaska Historical Commission establishes the criteria for identifying historical sites and applies the criteria through an evaluation process. She noted that the Alaska statutes have a section that indicates that the state is entitled to all the historical artifacts on its land.

MS. BITTNER stated that the division would use both in an evaluation process and determine the context. An isolated spike taken out of context is not significant. Still, it could be considered a substantial artifact if it is part of a more significant archeological or historic site, and people should leave it in place. She agreed that people might have their pile of artifacts, which is considered casual removal and is not the intent or purpose of this bill. SB 229 proposes better stewardship over Alaska's historic places and leaving artifacts alone. She emphasized that SB 229 addresses the systematic destruction, excavation, and vandalism of historic artifacts with the intent to sell, which DNR would like to deter.

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SENATOR VON IMHOF wanted to ensure the department wasn't overboard. She said one's man's junk is another man's treasure. If a person somehow has the fortitude to travel from Kennecott to Cordova and picks up discarded railroad spikes or anything discarded for decades, they could be thanked for cleaning up the land. She expressed concern that someone who hikes the Chilkoot Trail and picks up a rusty old tin soup can could be prosecuted. She acknowledged the importance of preserving arrowheads or mastodon tusks.

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VICE CHAIR MICCICHE asked why people could walk into a tourist shop in Juneau and purchase a mastodon tusk or items made from fossilized walrus ivory. He asked whether it was because those items were not found on state land.

MS. BITTNER answered that it could be that it is not from state land. She deferred to the Department of Law to respond.

[4:56:06 PM](#)

CHRISTOPHER ORMAN, Assistant Attorney General, Natural Resources Section, Civil Division, Department of Law, Juneau, Alaska,

responded that the Department of Law would review state and federal law regarding a mastodon tusk.

MR. ORMAN said he could answer some of the questions that were raised earlier in the hearing. One of the scenarios raised when this bill was before the Senate Judiciary Committee was someone on Sandy Beach picking up something from the derelict Treadwell Mine, and suddenly the person possessed an artifact. The committee raised that question in a different context today when it was related that someone picked up a mastodon tusk when floating the Chena River. Under the current statute, any violation of the Alaska Heritage Act would result in a misdemeanor. The idea of this bill was to differentiate some of the conduct.

MR. ORMAN stated that one big concern was removing artifacts intending to sell them. He highlighted that Judy Bittner, Office of History & Archaeology, would like to value these artifacts, so it makes sense to differentiate the conduct. Thus, if an individual intentionally destroys a site or intentionally collects an artifact with the intent to sell, it represents conduct the state wants to avoid. Although someone who picked up railroad spikes or some tiles might be violating the letter of the law and be subject to a misdemeanor, they would not likely be prosecuted.

[4:58:53 PM](#)

MR. ORMAN stated that the bill added provisions to address more egregious behavior and serve as a general deterrent. He suggested Ms. Schroeder, Department of Law, who is present today, related that only two cases had been brought forward under the current statute. He offered his view that the Department of Law has significant discretion. Rather than yielding some crimes, the idea was to impose penalties to serve as a deterrent to the public, so people would not dig at a historical or archeological site without a permit. The bill might also help with egregious situations, with civil offenses under [AS 41.35.215] would allow for restoration or remediation of a site that had been improperly excavated.

MR. ORMAN stated that it is possible to purchase a mastodon tusk, in some cases, because someone obtained a permit and, through federal or state law, could reach a point where it could be sold.

[5:00:39 PM](#)

VICE CHAIR MICCICHE responded that it is helpful, but it does not diminish that a child or adult picking an old bolt from Sandy Beach could be charged with a misdemeanor, which he found absurd. He agreed that taking an item from a historic Native site is one thing but taking a bolt from Sandy Beach is another. He suggested that perhaps this bill should identify that it is not a misdemeanor to pick up a railroad spike or bolt. He said that wading into Cook Inlet and picking up a hollowed-out stone that may have once been an oil lamp is very different from prying a carving from an obvious archeological historic Native site. He offered his view that the department seems to be saying that the committee should ignore the absurdity part and focus on the potentially egregious behavior, which is hard to do. He was unsure if the line was that clear.

[5:02:33 PM](#)

SENATOR STEVENS commented that this is a complex issue. He said he keeps thinking about the Native artifacts that are thousands of years old. He recalled the department differentiates the behavior based on the intent to sell. He offered his belief that there was nothing wrong with finding and collecting a fossil at Fossil Beach in Kodiak, but it would be a violation if the person were selling it.

[5:03:13 PM](#)

MR. ORMAN answered that was correct. He stated that the mental state was essential to consider. It would be challenging to satisfy the mental state of knowingly for an individual who picks up something at Sandy Beach. However, the intent to sell or deface and excavate a site without a permit would constitute a felony. He offered his view that the conduct pursuant to the mental state is what legally avoids the potential for some of the absurd outcomes that members had expressed concern about.

[5:04:55 PM](#)

At ease

[5:05:17 PM](#)

VICE CHAIR MICCICHE reconvened the meeting and opened public testimony on SB 229; he found none, and closed public testimony.

[5:06:31 PM](#)

VICE CHAIR MICCICHE withdrew his objection; he found no further objection, and the committee substitute (CS) for SB 229, Version O, was adopted as the working document.

[VICE CHAIR MICCICHE held SB 229 in committee.]

5:07:12 PM

There being no further business to come before the committee, Vice Chair Micciche adjourned the Senate Resources Standing Committee meeting at 5:07 p.m.