

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

April 28, 2023

3:30 p.m.

**MEMBERS PRESENT**

Senator Click Bishop, Co-Chair  
Senator Cathy Giessel, Co-Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Scott Kawasaki  
Senator James Kaufman  
Senator Forrest Dunbar  
Senator Matt Claman

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 82

"An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission; relating to administrative areas for regulation of certain commercial set net entry permits; establishing a buy-back program for certain set net entry permits; providing for the termination of state set net tract leases under the buy-back program; closing certain water to commercial fishing; and providing for an effective date."

- MOVED SB 82 OUT OF COMMITTEE

AREA M OVERVIEW PRESENTATION

- HEARD

SENATE BILL NO. 48

"An Act authorizing the Department of Natural Resources to lease land for carbon management purposes; establishing a carbon offset program for state land; authorizing the sale of carbon offset credits; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 82

SHORT TITLE: COOK INLET: NEW ADMIN AREA;PERMIT BUYBACK

SPONSOR(s): SENATOR(s) BJORKMAN

02/24/23 (S) READ THE FIRST TIME - REFERRALS  
02/24/23 (S) RES, FIN  
04/17/23 (S) RES AT 3:30 PM BUTROVICH 205  
04/17/23 (S) Heard & Held  
04/17/23 (S) MINUTE(RES)  
04/21/23 (S) RES AT 3:30 PM BUTROVICH 205  
04/21/23 (S) Heard & Held  
04/21/23 (S) MINUTE(RES)  
04/28/23 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 48

SHORT TITLE: CARBON OFFSET PROGRAM ON STATE LAND

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/27/23 (S) READ THE FIRST TIME - REFERRALS  
01/27/23 (S) RES, FIN  
02/24/23 (S) RES AT 3:30 PM BUTROVICH 205  
02/24/23 (S) Heard & Held  
02/24/23 (S) MINUTE(RES)  
04/21/23 (S) RES AT 3:30 PM BUTROVICH 205  
04/21/23 (S) Heard & Held  
04/21/23 (S) MINUTE(RES)  
04/26/23 (S) RES AT 3:30 PM BUTROVICH 205  
04/26/23 (S) -- MEETING CANCELED --  
04/28/23 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

DOUG VINCENT-LANG, Commissioner

Alaska Department of Fish and Game (ADF&G)

Juneau, Alaska

**POSITION STATEMENT:** Presented the Area M Overview.

JULIA O'CONNOR, Staff

Senator Cathy Giessel

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented the explanation of changes between version A and version B for SB 48.

RENA MILLER, Special Assistant to the Commissioner

Department of Natural Resources (DNR)

Anchorage, Alaska

**POSITION STATEMENT:** Reviewed Amendment 1 for SB 48 on behalf of the administration.

HELGE ENG, State Forester and Director  
Division of Forestry and Fire Protection  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on SB 48.

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

**POSITION STATEMENT:** Responded to questions during the hearing on SB 48.

#### **ACTION NARRATIVE**

[3:30:28 PM](#)

**CO-CHAIR CLICK BISHOP** called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Kaufman, Kawasaki, Dunbar, Wielechowski (via teleconference), Co-Chair Giessel, and Co-Chair Bishop. Senator Claman arrived soon thereafter.

#### **SB 82-COOK INLET: NEW ADMIN AREA;PERMIT BUYBACK**

[3:31:39 PM](#)

**CO-CHAIR BISHOP** announced the consideration of SENATE BILL NO. 82 "An Act relating to the powers of the Alaska Commercial Fisheries Entry Commission; relating to administrative areas for regulation of certain commercial set net entry permits; establishing a buy-back program for certain set net entry permits; providing for the termination of state set net tract leases under the buy-back program; closing certain water to commercial fishing; and providing for an effective date."

[3:31:52 PM](#)

**CO-CHAIR GIESSEL** moved to report SB 82, work order 33-LS0409\A, from committee with individual recommendations and attached fiscal note(s).

[3:32:10 PM](#)

CO-CHAIR BISHOP found no objection and SB 82 was reported from the Senate Resources Standing Committee.

[3:32:12 PM](#)

At ease

### AREA M OVERVIEW

[3:33:49 PM](#)

CO-CHAIR BISHOP reconvened the meeting and announced an Area M Overview.

[3:34:17 PM](#)

DOUG VINCENT-LANG, Commissioner, Department of Fish and Game, Juneau, Alaska, provided the Area M overview, reading from the following prepared testimony.

Thank you for the opportunity to speak with you today regarding coastal western Alaska fisheries and the impact that Area M salmon fisheries may have on them. For the record, my name is Doug Vincent-Lang, and I am the Commissioner of the Alaska Department of Fish and Game.

Let me begin by saying the Department is deeply concerned about the poor returns of chinook, summer chum, fall chum and coho salmon to coastal western Alaska systems. The poor returns have resulted in fishery restrictions and closures that impact food security, and subsistence and cultural activities.

I have visited the region numerous times and listened to testimony about the impact this is having. The words spoken are heartfelt and the impact understood. Let me be clear, we understand and are sympathetic to the hardship that the restrictions and closures are creating for people living in western Alaska.

As fishing is restricted or closed in rivers, people are asking what is being done in fisheries that intercept fish destined for these rivers. They are asking for these mixed stock fisheries to be restricted, or in the case of the legislation being discussed today, closed entirely.

It is important to note that nearly all salmon fisheries are mixed stock fisheries. They all harvest,

to varying degrees, stocks of mixed origins. For example, the salmon fisheries that occur in the lower Yukon River are mixed stock fisheries in that they harvest a range of discrete stocks that occur upriver of the fishery, including some of Canadian origin. It is not until a fishery is prosecuted on the spawning beds that it is not a mixed stock fishery.

[3:36:01 PM](#)

Slide 2, "Coastal Western Alaska Chum Salmon Marine Life History."

In the case of coastal western Alaska chum salmon, these fish are intercepted in various mixed stock marine fisheries, including as bycatch in marine trawl fisheries targeting pollock and cod as well various directed salmon fisheries, including the South Alaska Peninsula seine and gillnet fisheries.

[3:36:36 PM](#)

Slide 3, "Coastal Western Alaska Chum Salmon Marine Life History."

While there are many similarities, there are also differences in the migratory patterns of Asian versus coastal western Alaska chum. As can be seen in this slide both grouping move through the passes in the Aleutian chain. However, North American chum stock spend more of their time in the east Gulf of Alaska whereas there is overlap in the central and western Gulf.

[3:37:15 PM](#)

Slide 4, "Bristol Bay Chum Salmon Harvests."

It is important to note that coastal western Alaska stocks are also harvested in other fisheries, such as the Bristol Bay sockeye salmon fishery, as they move through that fishery on their way to the Kuskokwim and Yukon Rivers and Norton Sound Area. Bristol Bay fisheries harvested on average more than 1.1 million chum salmon during a fishery that targets sockeye salmon. While it is impossible to know how many of these are not of local Bristol Bay origin using current genetics technology, it is suspected that at least some are of Kuskokwim and Yukon Rivers origin.

[3:37:39 PM](#)

Slide 5, "Every Salmon Counts."

So, the question is: What is the acceptable level of intercept in these fisheries when subsistence is restricted or closed? Should all fisheries be closed if they harvest even a single chum salmon that is destined to coastal western Alaska when these fisheries are closed or restricted?

To get a handle on this question, it is important to understand the stock compositions of the salmon harvested in these mixed stock fisheries that intercept coastal western Alaska chum salmon. This will give us an idea of the impact the harvest may be having.

I will not talk about bycatch in this presentation as it is being addressed by the North Pacific Fishery Management Council. Instead, I will focus on the fisheries that occur along the South Alaska Peninsula, as this is the fishery that was the focus of the recent Board of Fisheries deliberations and action.

In response to the poor returns of chum salmon to coastal western Alaska, the Department initiated an evaluation of the genetic compositions of chum salmon harvested in the South Peninsula mixed stock salmon fisheries last year. This is one of numerous marine mixed stock fisheries that are known to intercept fish of the Bering Sea coastal origin.

SENATOR CLAMAN joined the committee.

[3:38:52 PM](#)

Slide 6, "Area M Geography."

Slide 7, "South Alaska Peninsula Geography."

Before I go any further, it is important to note that the geographic scope of the South Alaska Peninsula fisheries differ significantly from Area M fisheries. Area M covers a large geography that includes the South Alaska Peninsula and Aleutian Islands, the North Alaska Peninsula, and the Pribilof Islands. Many of these fisheries do not harvest significant numbers of chum of coastal western Alaska origin.

[3:39:19 PM](#)

CO-CHAIR BISHOP mentioned an earlier conversation they had about Port Moller genetics. He asked if that area was shown on slide 6.

COMMISSIONER VINCENT-LANG explained that the Port Moller line refers to a genetics line that gives genetics on sockeye salmon entering Bristol Bay. The department is not collecting genetic information on chum salmon in that area.

CO-CHAIR BISHOP asked if the Port Moller genetics testing area shows on the Area M map on slide 6.

COMMISSIONER VINCENT-LANG pointed to where the map identifies the Northern District and said it runs north of that line to the mainland of Alaska.

[3:40:26 PM](#)

COMMISSIONER VINCENT-LANG continued.

Slide 8, "South Alaska Peninsula Fishing Districts."

Instead, based on result of the WASSIP study, the main area of harvest of these coastal western Alaska stocks occurs along the South Alaska Peninsula. This includes is in the Unimak, Southwestern, Southeastern, and Southcentral Districts of Area M. It is these districts that I will focus on since they were the focus of the Board deliberations.

[3:41:02 PM](#)

Slide 9, "South Alaska Peninsula June Fishery Chum Harvests."

Our study was designed to assess whether stock compositions in this fishery changed from when we previously evaluated this as part of the WASSIP study conducted over a decade ago.

Slide 10, "South Alaska Peninsula Chum Harvests."

So, what did we learn? From fish ticket information we know that 817,279 chum salmon were harvested in the South Peninsula fisheries in 2022. This is 78% of the recent 10-year average.

Of these, 544,137 were harvested during June, which from previous studies is known when chum of coastal western Alaska origin are harvested in this fishery.

[3:41:30 PM](#)

Slide 11, "2022 Chum Harvests by Stock Group."

For the June fishery, about 58 percent of the chum salmon harvested were of Asian origin and about 18% were of coastal Alaska origin. That is about 6 out of every 10 chum salmon harvested were of Asian hatchery origin. In contrast, less than 2 out of 10 were of coastal western Alaska origin. Coastal western Alaska represents a grouping of Bristol Bay, Kuskokwim River, Yukon River, and Norton Sound summer chum salmon. Unfortunately, we cannot detect subcategories within this grouping with current technology.

[3:42:07 PM](#)

CO-CHAIR BISHOP asked what has to be done to hone in on the genetic testing.

COMMISSIONER VINCENT-LANG replied that both the National Oceanic and Atmospheric Administration (NOAA) laboratory and the ADF&G laboratory are looking at different genetic sequences within the genome to find out which sequence gives better discrimination between those stocks. So far they haven't found the right sequence within the genetics.

CO-CHAIR BISHOP asked what the next step will be in Area M once the genetics are isolated.

COMMISSIONER VINCENT-LANG answered that if a cap were in place on coastal western Alaska chum salmon in the Area M fishery, it would probably take four days to know the genetic composition of non-Asian versus southwest coastal western Alaska chum. However, it's not feasible right now because the fleet delivers every two-three days after their harvest occurs and they have probably fished several different areas within the South Peninsula fishery in that time. Managing for total chum catches would be more appropriate in this circumstance.

[3:44:21 PM](#)

SENATOR DUNBAR expressed surprise that the chum salmon data on slide 9 goes back to 1960. He asked the commissioner how confident he was in the accuracy of that data. His assumption was that it comes from the processors.

COMMISSIONER VINCENT-LANG replied it comes from information on fish tickets.

SENATOR DUNBAR asked about his level of confidence that the harvest numbers were accurate for each of those years.

COMMISSIONER VINCENT-LANG replied that he was very confident in the fish ticket data.

SENATOR DUNBAR reiterated that he was surprised that the department had 50-year-old data. He asked for an explanation of the cause for the large spike in 2021.

COMMISSIONER VINCENT-LANG replied that there were two issues in 2021, the first of which was confidentiality. When there are fewer than three processors, the data can't be released until after the season ends. The second issue was that there was a large sockeye return to Bristol Bay. The combination of factors prevented the department from doing a good job of tracking what was happening in that fishery. After 2021 the department entered into an agreement with the fishing community to waive confidentiality. The department said they wanted to return to a more normal harvest in that fishery of 500-550 thousand. The department also implemented the new genetic study. Those changes combined with an agreement with the processors to test fishing by moving the fleet around, resulted in June harvest numbers that dropped in one year from 1.1 million to about 550 thousand last year.

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CO-CHAIR BISHOP referenced the chum salmon data on slide 9 and asked the commissioner to get back to the committee with information about the returns on the Yukon and Kuskokwim rivers in the years 1985 through 2000.

COMMISSIONER VINCENT-LANG agreed to follow up with the data.

[3:47:11 PM](#)

COMMISSIONER VINCENT-LANG returned to the overview.

Slide 12, "Historic Chum Harvests by Stock Group."

This slide shows a comparison between the results from WASSIP and our study last year. They are similar. From the bottom panel you can see that both studies show that few salmon of coastal western Alaska origin are

harvested in this fishery after June, when the harvest shifts primarily to local stocks. [The July fisheries have become much more localized chum salmon fisheries than they are in terms of harvesting coastal western Alaskan stocks.]

Bottom line, our study showed that about 96,000 summer chum of coastal western Alaska origin were harvested in the South Peninsula fisheries last year during June. Based on preliminary run reconstruction data, this represents about a 6% harvest rate on these stocks. Again, this number represents the total number of chum of coastal western origin that were harvested. That is, these are not all of Yukon and Kuskokwim origin. They are also of Bristol Bay and Norton Sound origin.

This is the information that we presented to the Board of Fisheries at their recent meeting to inform their discussions.

The two primary questions the Board faced at their meeting were: What was an acceptable level of intercept and how could harvest of coastal western Alaska chum salmon be reduced?

[3:49:23 PM](#)

Slides 13-14, "South Alaska Peninsula June Fishery Regulatory History."

The South Alaska Peninsula fishery has a long and varied history.

- From the 1960s to the mid-1970s, fishing periods varied from 4.5 to 7 per week.
- From the mid-1970s to the mid-1980s, fishing depended on the forecasted strength of the Bristol Bay sockeye salmon run.
- From 1984-1986 fishing time was limited to 96 hours per week and no more than 72 consecutive hours to allow for escapement windows.

CO-CHAIR BISHOP said that information is important to show in correlation with slide 9 and the returns on the Yukon and Kuskokwim rivers.

COMMISSIONER VINCENT-LANG continued to slide 14.

- From 1986-2001 the fishery was managed based on Bristol Bay Guideline Harvest Levels and chum salmon caps.
- From 2004 to 2022 the fishery had set fishing periods with fishing windows.

[3:50:30 PM](#)

CO-CHAIR BISHOP asked him to talk about what happened when the seine boats showed up on the fishing grounds.

COMMISSIONER VINCENT-LANG said there's been a seine fishery for a long time, but the boats were much less powerful 15-20 years ago than they are now. Boats in that fleet now are probably twice the size, the engines are probably 2-3 times more powerful, and the nets are more efficient.

Slide 15, "South Alaska Peninsula June Fishery Economic Importance."

Economically, the South Alaska Peninsula Salmon June salmon fishery is important to the local area.

- It has a total ex-vessel average value of almost \$10 million.
- It raises over \$600,000 of fishery business tax, of which half is shared with local communities.
- It raises nearly \$100,000 in assessment for the Seafood Marketing program.

COMMISSIONER VINCENT-LANG advised that he provided the foregoing information because there's a fiscal note associated with the bill related to this presentation. He clarified that it is not to belittle the economic impact that's occurring in the coastal western Alaska systems.

CO-CHAIR BISHOP clarified that the committee was not hearing SB 128 today; this was an informational hearing on Area M.

[3:52:12 PM](#)

COMMISSIONER VINCENT-LANG continued.

Slide 16, "Proposal 140 Calendar."

Proposal 140, which was submitted by the Fairbanks Advisory Committee and supported by TCC and others,

called for adoption of a previous management approach that restricted time fished. Intended to only target South Unimak and Shumagin Islands June fishery (A.K.A. False Pass Fishery), and not the fisheries in the Northern, Northwestern, or Unalaska Districts, of Area M.

They postulated that chum salmon harvest could be reduced based solely on reduction of time alone. The proposal reduced the current four 88-hour fishing periods with no more than three days in any seven-day period, no more than 16 hours per day; and no more than two consecutive 16- hour fishing periods within a seven-day period.

[3:53:14 PM](#)

Slide 17, "South Alaska Peninsula June Fishery Chum & Sockeye Harvests."

However, when this management plan was utilized in the early 2000s it did not significantly reduce the harvest of chum salmon and given the improved fishing power of the modern Purse Seine fleet, the Department could not guarantee that chum salmon harvest would be reduced based solely on time restrictions. Based on this and other information, the Board chose to not pass proposal 140. It failed on a 3-4 vote.

[3:53:39 PM](#)

Slide 18, "Adopted Fishing Calendar."

Instead, they adopted a hybrid approach, specifically intended to reduce the harvest of chum salmon in June, that:

- Closed a known area of high chum harvests (Sanak Islands) to commercial fishing for salmon during June.
- Reduced commercial salmon fishing salmon time with purse seine gear in June by 13%
- Increased the length of closure window during the second week of June to allow chum salmon passage through the fishery.
- Created chum salmon harvest triggers that restrict and potentially close the commercial purse seine fishery in June, if they are met or exceeded. A

trigger of 300,000 chum was set that if exceeded after the second opening would reduce fishing time by 44 hours for the third period. This would provide a passage window in the third week. A second trigger of 450,000 was set that if exceeded after the third period would close the fourth period, a reduction of 88 hours. This would establish a passage window in the fourth week, as the fishery would be closed.

- Expressed an expectation, and received commitment from the fishing industry, that the industry coordinate efforts to reduce chum salmon harvest based on a signed agreement that reduced harvest last year. This included waiving confidentiality and forming voluntary cooperatives. The cooperatives were formed last year and were successful in reducing chum salmon harvests from 1.1 million chum in 2021 to 544,000 chum last year in June.

[3:55:52 PM](#)

CO-CHAIR BISHOP requested he recreate slide 18 and add the closures and reduction in hours.

COMMISSIONER VINCENT-LANG said he'd provide the information, but what it would show is that in the week June 18-24 there would be a loss of 44 hours, which would create a 72-hour passage window that week. If the 450,000 trigger was met, there would be no seine fishing in the last week of June.

CO-CHAIR BISHOP said it would be a good visual to post on BASIS for the people listening and watching from home.

[3:56:59 PM](#)

SENATOR DUNBAR asked Commissioner Vincent-Lang to describe voluntary cooperatives and whether they reduce intercept.

COMMISSIONER VINCENT-LANG explained that the volunteer cooperatives followed the rationalized fishery model. Last year a few vessels did test fishing to find out whether there were high chum salmon to sockeye salmon ratios. The fishing areas where high ratios were found were avoided and the fleet fished in the areas where the ratios were lower. This works by giving the fishermen more area to test fish and go fishing, and they move around to avoid chum salmon, he said.

SENATOR DUNBAR asked how the cooperatives are structured.

COMMISSIONER VINCENT-LANG replied they're formed by the industry, but they've also signed an agreement with the department to operate like they did last year.

SENATOR DUNBAR asked for confirmation that no administrative staff was involved and no nonprofit was formed.

COMMISSIONER VINCENT-LANG confirmed that the fishermen did this on their own.

3:58:30 PM

COMMISSIONER VINCENT-LANG continued to slide 19, "Compromise Solutions."

I want to note that many people were involved in this outcome which occurred over a 7-day period during which public comment was taken, a committee of the whole discussion occurred and numerous after hour discussions occurred.

As with all compromise solutions, people on both sides of the issue were not happy with the outcome. Inriver users felt the Board let them down by not adopting their preferred solution. South Peninsula fishermen felt they lost their traditional rights to harvest.

This season will tell the tale of the outcome. If the fishery is prosecuted, we will closely monitor it in season. We will also, assuming a fishery is prosecuted, conduct a second year of genetic sampling. If the fishery is cancelled, we will not be able to conduct this study this summer. We have also spoken with public safety to beef up enforcement to address the perceived issue of chum chucking. Finally, we will monitor the cooperatives to ensure they are operating as agreed to and envisioned.

In closing, as with many Board of Fisheries decisions, and also the legislative process, not everyone is always happy with the outcomes. But in both cases, it's not for a lack of caring or deliberation.

CO-CHAIR BISHOP articulated his intent to reach out to the Department of Public Safety (DPS) to understand the scope of their enforcement to eliminate chum chucking because those fish

represent protein that people along the Yukon and Kuskokwim rivers could use.

CO-CHAIR BISHOP asked the commissioner to talk about chum retention in the exclusive economic zone (EEZ) and whether Area M was an EEZ fishery that requires the retention of bycatch.

COMMISSIONER VINCENT-LANG said there's some EEZ fishing along the South Alaska Peninsula outside three miles. The federal government delegated the state to manage that area, so it's under state regulations which require the full retention of salmon.

CO-CHAIR BISHOP asked whether the Asian fish are sold on the market or required to go to a SeaShare program.

COMMISSIONER VINCENT-LANG replied that the south peninsula fishery is really a sockeye fishery; chum salmon are not targeted and the fishermen would prefer to catch fewer of them. They're delivered to the processor for processing but they're not purchased; the processor has to report them and his understanding is that the processors have agreed to turn them over to SeaShare.

CO-CHAIR BISHOP said he'd ask the Area M fishermen about that when they come before the committee next week. He asked the commissioner if he'd be out on the grounds this summer to monitor the fishery more closely so it's shut down if a trigger point is reached.

COMMISSIONER VINCENT-LANG mentioned the triggers and said he wouldn't hesitate to take action to ensure the harvest is limited to about .5 million chum salmon, knowing that a large percentage are Asian chum. He added that it worked last year when the department informed the fleet that another 1.1 million chum salmon harvest wasn't acceptable. That's when the industry initiated the voluntary cooperatives, and it worked.

[4:04:05 PM](#)

SENATOR KAWASAKI asked the commissioner to talk about the Asian chums that go to the SeaShare program.

COMMISSIONER VINCENT-LANG answered that last year they were distributed to communities in the coastal western Alaska system. He added that the department understands that it's not the same as catching and processing your own fish, but it was a way to

return some of the fish. He restated that 6 of 10 of those salmon were probably Asian chums.

COMMISSIONER VINCENT-LANG thanked the legislature for the money for the genetic studies, which will help the department understand the composition of the stocks and what can be done to minimize the harvests going forward. He committed to continue looking at the genetics to parse the Yukon, Kuskokwim, and Norton Sound stocks from the coastal western Alaska group.

CO-CHAIR BISHOP thanked Commissioner Vincent-Lang for the overview.

[4:06:04 PM](#)

At ease

### **SB 48-CARBON OFFSET PROGRAM ON STATE LAND**

[4:06:12 PM](#)

CO-CHAIR GIESSEL reconvened the meeting and announced the consideration of SENATE BILL NO. 48 "An Act authorizing the Department of Natural Resources to lease land for carbon management purposes; establishing a carbon offset program for state land; authorizing the sale of carbon offset credits; and providing for an effective date."

She noted there was a committee substitute for the committee to consider.

[4:06:34 PM](#)

CO-CHAIR BISHOP moved to adopt the committee substitute (CS) for SB 48, work order 33-GS1372\B, as the working document.

[4:06:45 PM](#)

CO-CHAIR GIESSEL objected for an explanation of the changes.

[4:06:52 PM](#)

JULIA O'CONNOR, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, presented the explanation of changes between version A and version B for SB 48.

The Committee Substitute adopts the following changes:

1. Technical drafting changes were made throughout the bill to conform to the Legislative Drafting Manual.

2. The effective date was expanded to cover the entire bill (page 9, line 17).

CO-CHAIR GIESSEL explained that the CS does not change the content of the governor's bill; it was redrafted to comport to Legislative Legal Services' drafting format.

[4:07:42 PM](#)

CO-CHAIR GIESSEL removed her objection and the CS was adopted.

[4:08:02 PM](#)

CO-CHAIR GIESSEL moved to adopt Amendment 1, work order 33-GS1372\B.10.

33-GS1372\B.10  
Dunmire  
4/27/23

#### AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR GIESSEL  
TO: CSSB 48(RES), Draft Version "B"

Page 3, line 30, through page 4, line 1:

Delete all material and insert:

"(f) Compensation for a lease under this section  
(1) shall be designed to maximize the return to the state and be a form of compensation provided under AS 38.05.073(m);  
(2) shall be separately accounted for under AS 37.05.142; and  
(3) may be used by the legislature to make appropriations to the department to carry out the purposes of this section."

Page 4, line 6, following "state.":

Insert "The findings must include  
(1) reasonably foreseeable effects that a project may have on the state or local economy; and  
(2) anticipated annual revenue that the lease will yield to the state.  
(i) State land used for carbon management purposes must, to the extent practicable, remain open to the public

for access, hunting, fishing, and other generally allowed uses as determined by the department."

Reletter the following subsection accordingly.

Page 8, line 22, following "(4)":

Insert "if applicable,"

Page 9, line 2:

Delete "nontimber"

Insert "other [NONTIMBER]"

[4:08:11 PM](#)

CO-CHAIR BISHOP objected for purposes of discussion.

[4:08:17 PM](#)

CO-CHAIR GIESSEL explained that Amendment 1 combines four amendments the House Resources Committee added to the House companion bill. She deferred to Rena Miller to explain the amendment.

[4:08:48 PM](#)

RENA MILLER, Special Assistant to the Commissioner, Department of Natural Resources (DNR), Anchorage, Alaska, reviewed Amendment 1 for SB 48 on behalf of the administration. She highlighted the following.

Page 3, line 30 of version B - The Division of Mining Land and Water is given receipt authority for the carbon leasing program. The revenue generated from the leases will be used to supplant general funds to pay for the new position.

Page 1, line 10 of the amendment - Two findings are added to the Best Interest Finding required for a leasing program under the carbon offset bill.

Page 4, line [4] of version B- The findings must consider reasonably foreseeable effects that the project will have on the state and local economy and the anticipated revenue that the annual lease would provide to the state. State land under lease for carbon management purposes must, to the extent practicable, allow public access for general uses as determined by the department.

[4:11:17 PM](#)

SENATOR KAWASAKI asked what the term "to the extent practicable" means in the current draft of the bill.

MS. MILLER explained that there's a policy statement that the land will remain open to public access, but the phrase gives the division some leeway so the leasing activity can actually occur.

[4:11:51 PM](#)

CO-CHAIR BISHOP commented that "to the extent practicable" is a favorite term in the department.

[4:12:04 PM](#)

SENATOR DUNBAR commented that it had been a challenge when the committee asked DNR a question only to receive the response that it's a Department of Revenue (DOR) question. He asked which department would determine the anticipated revenue to the state from the leases. His reading is that some oil companies could write down some of their oil production tax expenses. He asked if it was the net yield to the state. He also asked if the focus was on the lease and that the revenues lost elsewhere were being ignored.

MS. MILLER replied that DNR will determine the lease revenue to the state. To the second question, she offered her understanding that an amendment was forthcoming to address lease expenditures to offset other tax liabilities.

SENATOR DUNBAR said he'd repeat the question if and when the amendment is offered.

MS. MILLER added that AS 43.55 is the oil and gas production tax, which is administered by the Department of Revenue (DOR).

SENATOR DUNBAR commented that the short answer is that DNR will focus on administering the leases and the impacts to DOR won't be part of DNR's calculation.

MS. MILLER said that's correct; the compensation received for a lease related to carbon management is under DNR's jurisdiction. All oil and gas production taxes an entity owes is under DOR's jurisdiction.

[4:15:17 PM](#)

MS. MILLER continued to discuss Amendment 1.

Page 8, line [22-23] of the bill - Adds a carbon offset project undertaken by DNR to Sec. 41.17.210 Management of state forests. The House Resources Committee felt this was important, so the amendment adds the term "if applicable,".

Page 9, line 2 of the bill - The term "nontimber" is removed from Sec. 12. AS 41.17.230(a) relating to a forest management plan in recognition that a carbon offset project is timber related.

[4:17:11 PM](#)

SENATOR CLAMAN referenced the four criteria under AS 41.17.220. Management of state forests. He asked how those four factors were weighted.

MS. MILLER deferred the question to the state forester, Helge Eng.

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HELGE ENG, Ph.D., State Forester and Director, Division of Forestry and Fire Protection, Department of Natural Resources (DNR), Anchorage, Alaska, said the four criteria are equal in priority.

SENATOR CLAMAN commented that he found it interesting that the sustained yield principle is given equal weight as the other three factors.

MS. MILLER clarified that they're given equal weight when undertaking management activities, but each criterion is based on the others to a certain degree. Sustained yield is discussed in the constitution, the statutes reflect what's in the constitution, and the management plan is formed under statute.

SENATOR CLAMAN opined that if the constitution requires sustained yield, then that should be given the greatest weight if there's ever a conflict among the criteria.

MS. MILLER said there's interaction between them but she believes that Chris Orman would confirm that in any situation the constitution is the overriding law of the land.

CO-CHAIR GIESSEL asked Mr. Orman to respond to Senator Claman's question.

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CHRISTOPHER ORMAN, Assistant Attorney General, Civil Division, Natural Resources Section, Department of Law, Juneau, Alaska, said yes, the sustained yield principle is a constitutional requirement, but this chapter, which is referring to the provisions in AS 41.17 pursuant to state forests, will be driven

by the constitutional and statutory provisions. A forest management plan will be similarly driven. How a carbon project would be undertaken by DNR in that context, would also need to comply with those provisions. He continued that the sustained yield principle will carry a lot of weight in the analysis because it's part of provisions 2, 3, and 4. He agreed with Senator Claman that the sustained yield principle carries weight because it's addressed in the constitution. The way it's infused into the other provisions bolsters the weight of the sustained yield principle in that context.

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SENATOR KAUFMAN asked Ms. Miller to go through the requirements to adequately survey to ensure a more valuable resource isn't trapped.

MS. MILLER stated that mining has a primacy so DNR is not able to choose anything above that mineral estate. If there is a highly prospective mineral resource that could be of potential interest in the future, that area wouldn't be enrolled in a carbon offset project. The provision that provides the opportunity to allow for some surface disturbance accommodates something that might come up during the course of a 40 year commitment for a state project. The key is to ensure there's no dipping below the baseline stock of the carbon project and that more is always growing than is harvested or removed for some purpose. She noted that the larger the project the easier it becomes to accommodate the removal of carbon from the landscape, but there are also ways to do that within a smaller project without looking to DNR's mandate to develop all resources for that benefit.

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CO-CHAIR BISHOP removed his objection.

CO-CHAIR GIESSEL found no further objection and Amendment 1 was adopted.

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CO-CHAIR GIESSEL held SB 48 in committee for future consideration.

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There being no further business to come before the committee, Co-Chair Giessel adjourned the Senate Resources Standing Committee meeting at 4:26 p.m.