

501R

62

DATE: 6/27/90

FURTHER:

DATE TURNED INTO OFFICE: 6/28/90

The Finance Committee considered SCR 62

Subsistence priority required under the Alaska National Interest Lands Conservation Act.

and recommended:

- replace with _____ CS
- or adopt _____ CS SCR 62 (RIS)
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____
SFC - Debra

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

SIGNING DO PASS:

Paul G. ...
...
...

OTHER RECOMMENDATIONS:

Do Not Pass
Do Not Pass
Do Not Pass
...

1. Do Not Pass -- 2.

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Subsistence priority under ANILCA
Sponsor: Jones and Faiks
Requestor: _____

Agency Affected: Dept. of Law
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senator Rick Uehling, Co-chairman
Division: Senate Finance Committee

Phone: 465-4821
Date: June 27, 1990

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsor(s): SEN. JONES, Faiks

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE CONCURRENT RESOLUTION NO. 62 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

5 Relating to the subsistence priority
6 required under the Alaska National
7 Interest Lands Conservation Act.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the Alaska National Interest Lands Conservation Act (ANILCA)
10 requires subsistence uses to be given priority on federal land in Alaska
11 over the taking of subsistence resources for other purposes; and

12 WHEREAS under ANILCA only rural residents are entitled to the subsis-
13 tence priority; and

14 WHEREAS the Alaska Supreme Court held in McDowell v. State, 785 P.2d 1
15 (Alaska 1989), that the state law granting a subsistence priority to rural
16 residents violates secs. 3, 15, and 17 of art. VIII of the state constitu-
17 tion; and

18 WHEREAS the court did not discuss other grounds advanced by appellants
19 in McDowell v. State, including the challenge based on the equal protection
20 and due process clauses of the United States Constitution; and

21 WHEREAS, unless the state implements the subsistence preference, the
22 federal government is required under ANILCA to take over subsistence re-
23 source management on federal land from the state; and

24 WHEREAS it has not been determined whether the subsistence priority in
25 ANILCA can be complied with under the state constitution and whether ANILCA
26 violates the federal constitution;

27 BE IT RESOLVED by the Alaska State Legislature that the Governor is
28 respectfully requested to file an original action in the United States
29 Supreme Court on behalf of the State of Alaska challenging the

1 constitutionalty of the subsistence priority under ANILCA and requesting
2 that the federal government be enjoined from assuming management over
3 subsistence resources on federal land in Alaska; and be it

4 FURTHER RESOLVED that the Department of Law is requested to arrange to
5 have the challenge handled by a private attorney or law firm through con-
6 tract; and be it

7 FURTHER RESOLVED that the Alaska State Legislature respectfully re-
8 quests the Alaska Supreme Court to stay the effect of its decision in
9 McDowell v. State, 785 P.2d 1 (Alaska 1989), until a final decision is
10 rendered by the United States Supreme Court on the constitutionality of
11 ANILCA.

12 COPIES of this resolution shall be sent to the Honorable George Bush,
13 President of the United States; the Honorable Richard Thornburgh, Attorney
14 General of the United States; the Honorable Ted Stevens and the Honorable
15 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Repre-
16 sentative, members of the Alaska delegation in Congress; the Honorable
17 Steve Cowper, Governor of the State of Alaska; and to the Honorable Warren
18 W. Matthews, Chief Justice of the Alaska Supreme Court.

FISCAL NOTE

REQUEST:

Revision Date: 6/26/90
Title: Relating to Subsistence
priority on ANILCA
Sponsor: Jones
Requestor: Fahrenkamp

Agency Affected: Department of Law
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0			
TRAVEL	0	0	0			
CONTRACTUAL	500,000	250,000	200,000			
SUPPLIES	0	0	0			
EQUIPMENT	0	0	0			
LAND & STRUCTURES	0	0	0			
GRANTS, CLAIMS	0	0	0			
MISCELLANEOUS	0	0	0			
TOTAL OPERATING	500,000	250,000	200,000			

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	500,000	250,000	200,000			
FEDERAL FUNDS						
OTHER						
TOTAL	500,000	250,000	200,000			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The expenditures reflected in this analysis represent the cost of contracting with a litigation team composed of learned sholars, cultural anthropologists, and other expert witnesses as needed. It is expected that more than one law firm may be needed to provide adequate representation.

Prepared by: James L. Baldwin for Richard Pegues Phone: 465-3600
Division: Civil Date: 6/26/90

Approved by Commissioner: As per Richard Pegues Date: 6/26/90
Agency: Office of the Attorney General

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Changes in SCR 62 (Res.)
have no fiscal impact.
This fiscal note is
appropriate.

D.A.
6/27