

HJR

25

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 24, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/20/99

The FINANCE Committee considered:

HJR 25

HOUSE JOINT RESOLUTION NO. 25

CONST. AM: FISH & WILDLIFE INITIATIVES

Proposing an amendment to the Constitution of the State of Alaska relating to a petition for an initiative or referendum regarding fish or wildlife.

recommends it be replaced with the following committee substitute AS HJR 25 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) Dept of Gov 3/16/99

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Therian</i>	Therian			X	
<i>Mulder</i>	Mulder				✓
<i>Bundt</i>	Bundt			✓	
<i>Kuhring</i>	Kuhring	X			
<i>Austerman</i>	Austerman			X	
<i>J. Davis</i>	J. Davis		X		
<i>Grassmick</i>	Grassmick		X		
<i>J. Davis</i>	J. Davis			X	
<i>Williams</i>	Williams			X	
<i>Fisher</i>	Fisher	X			

CHAIR'S SIGNATURE _____

Therian

Mulder

Mulder

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CS HJR 25(JUD)

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment relating to BRU Elective Operations
 initiative or referendum regarding fish or wildlife Component General and Primary
 Sponsor Representative Ogan
 Requester House Judiciary Committee Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by Gail Fenumiai *Gail Fenumiai*
 Division Division of Elections
 Approved by Lt. Governor Fran Ulmer *Fran Ulmer*
 Agency Office of the Lieutenant Governor

Phone 465-3935
 Date/Time 3/24/99 9:46 AM
 Date 3/24/99

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Testimony of the Alaska Outdoor Council
Relating to ballot initiatives, House Finance Committee

By Dick Bishop, Vice-President
4/24/99

Mr. Chairman, committee members, I am Dick Bishop, Vice-President of the Alaska Outdoor Council, on whose behalf I'm testifying.

The Council, at it's statewide meeting discussed the issue of ballot initiatives, and voted to support the approach now embodied in CSHJR 25 (Jud).

We have observed and experienced the growing national trend to use the initiative process to influence fish and wildlife management and use.

In virtually all cases, these initiatives have advocated simple actions that affect complex issues. The approach is usually highly emotional, and show little regard for sound conservation, scientific management, or the values of others.

As we have seen 2 years ago and again this past year, there is no law requiring truth in advertising on these initiatives. Initiatives become a battleground of 30-second sound bites. Whoever can buy the most bites is very likely to win - regardless of the proposal's quality.

Compare that scene to Alaska's structure for developing and implementing management policies and regulations. Under an outstanding Constitution and with Legislatively delegated authority, the Boards of Fisheries and Game and about 80 advisory committees sort through hundreds of proposals annually, aided by professional staff and the Departments of Fish & Game, Law, and Public Safety. Anyone, and everyone, is entitled to offer their advice on management and regulations.

The Boards hold those proposals up to public and professional scrutiny before deciding on what to approve and what to reject.

There is no more open or demanding process for determining the best course of action with regard to conservation and meeting people's needs that I am aware of based on my nearly 40 years experience in the wildlife field.

The initiative process, unfortunately, bypasses that entire considered, careful process. It short circuits thoughtful public involvement.

There are about 300,000 anglers, 100,000 hunters, and 10,000 trappers, plus a host of commercial fishermen and subsistence fishermen who depend upon the State system to assure that fish and wildlife will be managed on the sustained yield principle, and that their values, which are tied to consumptive uses of these renewable resources, are accommodated and respected.

The initiative process extends no such consideration to these uses, values, or conservation standards. In fact, it subverts them. We should not manage fish and game by 30-second sound bites.

The Alaska Outdoor Council urges your passage of C^SHJR 25. We do not believe that the constraints on the initiative process offered by the alternative resolutions, which have their merits, are up to the job of ensuring an effective means of conserving Alaska's fish and wildlife, and protecting fishing, hunting and trapping values.

Thank you.

Election Day 1998

Initiative Results



1998 Ballot Initiative Results

The election brought some resounding initiative victories for animals and, alas, some sad defeats. **California:** In an enormous victory for horses. California voters successfully passed a measure which outlaws the sale or transport of California horses for the purpose of slaughter for human consumption. The Save the Horses initiative was a ground-breaking effort that many are calling the beginning of the end for the multi-million dollar U.S. horse slaughter industry. Friends of Animals is already working with another animal protection group to launch a similar initiative in another key state to protect horses from slaughter.

The passage of the California trapping initiative, although a seeming victory for the animals, may actually represent a step backward. In a misguided effort to defuse opposition, its sponsors added so many exemptions to the initiative that it will not only permit cruelty to continue but may actually encourage more abuse of so-called nuisance wildlife by showing trappers a way to circumvent humane concerns. The initiative allows trappers to continue to use snares and Conibear traps, which in California account for about 2/3 of all trapping.

Alaska: Unfortunately, in Alaska, the initiative to ban the snaring of wolves was defeated. Opponents of the initiative waged a totally disingenuous campaign which, according to Dr. Gordon Haber, "hid behind the skirts of Native culture." Opponents raised bogus race and human rights issues, even misleading Natives into believing they would no longer be allowed to wear their ceremonial robes. The Ballot Initiative Coalition, a group of hunting/trapping organizations under the NRA umbrella, waged a disinformation campaign that played on the fears and paranoia of Alaskans. On October 30th, an NRA-funded computer phoned every household in Alaska, warning that the passage of the wolf initiative would bring bands of animal rights extremists to the state to take away their guns! Despite such well-funded opposition, the initiative made a good showing and educated thousands of people. FoA remains unbowed in our determination to help pass such an initiative in Alaska. It will return to the ballot in the future...and next time it will win.

Ohio, Utah, and Minnesota: The animals lost in three states. In Ohio, an initiative to prevent mourning doves hunts lost in a 60%-40% vote. The animals also lost in Utah where a ballot referendum passed which requires a two-thirds majority of voters to approve any wildlife protection measure. And in Minnesota, the voters rallied around a measure which identifies hunting as a Constitutional right that shall be "forever preserved."

Missouri and Arizona: The animals won big, though, in Missouri and Arizona. Initiatives in both states to ban cockfighting passed by resounding majorities. These initiatives make it a crime to fit roosters with sharp metal spurs and force them to fight in a public ring until one of them is dead. The passage of these measures leaves only three states in the U.S. where cockfighting is legal. The results of this year's initiatives show that the referendum process is a unique and marvelous tool for combatting the vested interests which stall animal protection legislation. We've had some wonderful victories. Now is the time to roll up our sleeves and start planning for the next election.

Compliments of Rep. Ogan



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

REVISED

SPONSOR STATEMENT

House Joint Resolution 25

"Proposing an amendment to the Constitution of the State of Alaska prohibiting initiatives providing for the utilization, development, or conservation of fish or wildlife."

HJR 25 bars fish or wildlife issues from the initiative process.

The Constitution of the State of Alaska (Article VIII, section 2) clearly states the Legislature is the authoritative body to manage fish and game. The Legislature can, however, delegate that authority to a board. The Boards of Game and Fisheries were created as an extension of this management body.

There is no constitutional restriction on the ability of the Alaska Legislature to propose an amendment to the Alaska Constitution that would alter, restrict, or even prohibit the use of the initiative by the people to enact laws relating to fish and game.

Too often the initiative process is used to advance an emotional agenda which does not contain rational or scientific principles. Resource management must be backed up by sound, logical, scientific findings. HJR 25 will strengthen the Legislature's constitutional authority to manage fish and wildlife.

ARTICLE VII. HEALTH, EDUCATION AND WELFARE.

SECTION 1. PUBLIC EDUCATION. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

SECTION 2. STATE UNIVERSITY. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

SECTION 3. BOARD OF REGENTS OF UNIVERSITY. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

SECTION 4. PUBLIC HEALTH. The legislature shall provide for the promotion and protection of public health.

SECTION 5. PUBLIC WELFARE. The legislature shall provide for public welfare.

ARTICLE VIII. NATURAL RESOURCES.

SECTION 1. STATEMENT OF POLICY. It is the policy of the State to encourage the settlement of its land and the development of its re-

sources by making them available for maximum use consistent with the public interest.

SECTION 2. GENERAL AUTHORITY. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

SECTION 3. COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

SECTION 4. SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

SECTION 5. FACILITIES AND IMPROVEMENTS. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure better utilization and development of the fisheries, wildlife, and waters.

SECTION 6. STATE PUBLIC DOMAIN. Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

SECTION 7. SPECIAL PURPOSE SITES. The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

SECTION 8. LEASES. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

SECTION 9. SALES AND GRANTS. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

SECTION 10. PUBLIC NOTICE. No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

SECTION 11. MINERAL RIGHTS. Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right,

subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

SECTION 12. MINERAL LEASES AND PERMITS. The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

SECTION 13. WATER RIGHTS. All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

SECTION 14. ACCESS TO NAVIGABLE WATERS. Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

SECTION 15. NO EXCLUSIVE RIGHT OF FISHERY. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry

government information, and perform other duties prescribed by law.

SECTION 15. SPECIAL SERVICE DISTRICTS. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

ARTICLE XI. INITIATIVE, REFERENDUM, AND RECALL.

SECTION 1. INITIATIVE AND REFERENDUM. The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

SECTION 2. APPLICATION. An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

SECTION 3. PETITION. After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the house districts of the State, it may be filed with the lieutenant governor.

SECTION 4. INITIATIVE ELECTION. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred-twenty days after adjournment of the legislative session following the filing. If, before the elec-

tion, substantially the same measure has been enacted, the petition is void.

SECTION 5. REFERENDUM ELECTION. A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held more than one hundred-eighty days after adjournment of that session.

SECTION 6. ENACTMENT. If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date. It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law.

SECTION 7. RESTRICTIONS. The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

SECTION 8. RECALL. All elected public officials in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by the legislature.

ARTICLE XII. GENERAL PROVISIONS.

SECTION 1. STATE BOUNDARIES. The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, included in the Territory of Alaska upon the date of ratification of this constitution by the people of Alaska.

SECTION 2. INTERGOVERNMENTAL RELATIONS. The State and its political subdivisions may cooperate with the United States and its territories, and with other states and their political subdivisions on matters of common interest. The respective legislative bodies may make appropriations for this purpose.

SECTION 3. OFFICE OF PROFIT. Service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this constitution.

SECTION 4. DISQUALIFICATION FOR DISLOYALTY. No person who advocates, or who aids or belongs to any party or organization or association which advocates, the overthrow by force or violence of the government of the United States or of the State shall be qualified to hold any public office of trust or profit under this constitution.

SECTION 5. OATH OF OFFICE. All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as to the best of my ability." The legislature may prescribe further oaths or affirmations.

SECTION 6. MERIT SYSTEM. The legislature shall establish a system under which the merit principle will govern the employment of persons by the State.

SECTION 7. RETIREMENT SYSTEMS. Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

SECTION 8. RESIDUAL POWER. The enumeration of specified powers in this constitution shall not be construed as limiting the powers of the State.

SECTION 9. PROVISIONS SELF-EXECUTING. The provisions of this constitution shall be construed to be self-executing whenever possible.

SECTION 10. INTERPRETATION. Titles and subtitles shall not be used in construing this constitution. Personal pronouns used in this constitution shall be construed as including either sex.

SECTION 11. LAW-MAKING POWER. As used in this constitution, the terms "by law" and "by the legislature," or variations of these terms, are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI.

SECTION 12. DISCLAIMER AND AGREEMENT. The State of Alaska and its people forever disclaim all right and title in or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held by or for any Indian, Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. The State and its people agree that, unless otherwise provided by Congress, the property, as described in this section, shall re-

Fairbanks

Testimony of the Alaska Outdoor Council
Relating to ballot initiatives, House Finance Committee

By Dick Bishop, Vice-President
4/24/99

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Compare that scene to Alaska's structure for developing and implementing management policies and regulations. Under an outstanding Constitution and with Legislatively delegated authority, the Boards of Fisheries and Game and about 80 advisory committees sort through hundreds of proposals annually, aided by professional staff and the Departments of Fish & Game, Law, and Public Safety. Anyone, and everyone, is entitled to offer their advice on management and regulations.

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Whims should not subvert wildlife managers

By ROD ARNO

Having both a ballot initiative and a board's process to make laws regarding fish and wildlife management thwarts professional management of natural resources. Voters should be given the chance to choose between a constitutionally mandated game-management process or to decide to manage according to the whims of the majority of the moment.

Alaska's fish and game boards, with their local advisory committees, are one of the most open to the public, thus democratic, systems for fish and wildlife management ever put into law. It's easily understood why the framers of our constitution were so committed to giving the people of Alaska a say in natural resource management. Look at the history of natural resource extraction of Alaska prior to statehood: Northern fur seals were hunted down to only 10 percent of their original num-



bers by 1911.

By the 1930s a commercial fishing boom had decimated Alaska's salmon stocks. Banning fish traps (90 percent owned by Outside packing firms) was one of the main issues supporting a yes vote for statehood during the late 1950s.

Public testimony given before board members allows a large spectrum of Alaska's voting populations the opportunity to influence fish and wildlife decision. The ballot initiative process does not allow for a meaningful exchange of ideas; it's decisive — it's either a yes or no vote.

Public proceedings before boards responsible for fish and game laws are codified in the Administrative Procedure Act Section 44.62.210. The Board of Fisheries listened to a week of testimony

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last February in Soldotna. The Board of Game meeting last week in Anchorage took days of public testimony, plus evening issue meetings on specific proposals. Public participation is only limited for those who don't show or don't send written comments.

At these board meetings I watched mothers hold up their children to board members and cry, "Don't take away their way of life." I heard lodge owners, fishing guides, big game outfitters and commercial fishermen advocate for their financial well-being.

A majority of urban and rural residents made it clear from their public testimony that they wanted a greater

opportunity for personal use of a publicly owned replenishable resource. Those who honored an existence value for fish and wildlife advocated for exclusion of human consumptive uses. Most drew the line in favor of the habitat and conservation of biodiversity.

Board members have the advantage of a staff of professional fish and wildlife managers, plus the legal expertise from the attorney general's office to assist them in making management decisions for the maximum benefit of the people. Data is gathered on wildlife populations, habitat conditions and Alaskan voters' preferential uses for these natural re-

sources. Management decisions, consistent with the constitution, are determined by far more information than can be assimilated in a 30-second media sound bite.

A restriction on the use of the ballot initiative regarding fish and game management does not infringe on the public process. Alaska voters retain their say in fish and wildlife management decisions by electing a governor who appoints board members. Publicly elected legislators must confirm all board appointments. Local fish and game advisory committees are elected at open public meetings. Clearly the checks and balances of a representative government remain intact.

The moose populations living in Game Management Unit 13 are in trouble. The Nelchina caribou herd may suffer the same fate. Predators, both bear and wolf, are killing most of the newborn calves each year. Recruit-

ment of new cows isn't happening. Traditional hunting methods won't reduce predator numbers fast enough to allow new calves to replace old cows. Yet the Board of Game is limited in its efforts to implement a wolf control program to save the moose herd. It's limited because of a ballot measure that makes effective predator control illegal.

Same-day-airborne hunting had been banned by the Board of Game five years prior to the ballot initiative banning SDA hunting of wolf. Predator control and SDA wolf hunting are two different actions.

As long as well-financed sociologists are allowed to subvert fish and game management decisions through the initiative process, there is little incentive for public participation at the board process level.

— Rod Arno is the president of Alaska Outdoor Council.

Valdez lessons unheeded

difference, why doesn't he try to legislate alcohol as a drug? Alcohol has caused

*Compliments of
Rep. Scott Ogan
House District 27*