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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 45

Revision Date/Time (Note if correction) _____ Dept. Affected DOT&PF
 Title Land Owner Immunity/ROW Vacation BRU Commissioners Office
 Component _____
 Sponsor Senator Halford
 Requester (S) JUD Component Serial No. _____

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUE ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 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 Dennis Poshard, Legislative Liaison Phone 465-3904
 Division Office of the Commissioner Date/Time 4/13/99 12:35 PM
 Approved by Commissioner *Joseph L. Pribens* Date 4/13/99
 Agency Department of Transportation and Public Facilities

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB45

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to tort immunity for personal BRU: Parks & Rec Mgmt
injuries or death occurring on land; relating to the vacation by... Component: Parks Management
 Sponsor: Halford
 Requestor: (S) JUD Component Serial No. #452

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: \$ none

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)

There is no fiscal impact to the Department of Natural Resources anticipated with implementation of this legislation.

Prepared by: Jim Stratton, Parks/Dick LeFebvre, Land Phone: 269-8701/269-8502
 Division: Parks/Land Date: 17-Feb-99
 Approved by Commissioner: [Signature] Date: 2-16-99
 Agency: Natural Resources

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/25/99

FURTHER: Finance

Date of 5-Day Notice: 4-15-99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4-19-99

Judiciary Committee considered

SENATE BILL NO. 45

"An Act relating to tort immunity for personal injuries or death occurring on land; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 45 (K) _____ (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Kirk Halford</i>	✓	<i>Concur</i>	✓		
CHAIR: <i>Adrian Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DNR	2/16	✓	
DOT	4/13	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

Senate

Official Business

Senate Bill 45 Sponsor Statement

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
Fax (907) 465-4928

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958
Fax (907) 694-0549

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

"An Act relating to tort immunity for personal injuries or death occurring on land; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date."

Senate Bill 45 expands the limited immunity granted under AS 09.65.200 to include improved land as well as unimproved land, providing that the land was entered onto for purpose of recreation and that there was no compensation paid for the access or use of the land.

This legislation comes forward in response to the desire to preserve and to expand recreational access for Alaskans, and for visitors to the State. The ability to access lands for purposes of skiing, hiking, hunting, fishing, snow-machining and numerous other outdoor recreational activities is an important aspect to enjoying the benefits of our great state. The potential for liability and litigation for private landowners who allow the public free access to their lands for recreational purposes has created pressure to further restrict entry and a disincentive to the establishment of other outdoor activity.

Promoting recreational opportunity and establishing additional trail systems has become a priority for a number of groups and organizations around the state. We have received requests and/or support for this legislation from numerous entities including: the State Division of Parks, the Municipality of Anchorage, the Anchorage Economic Development Corporation, the City of Wasilla, the Wasilla, Palmer, Fairbanks and State Chambers of Commerce, the Alaska Snowmachine Association, the Mat-Su Motor Mushers, the Alaska Boaters' Association, and the Alaska Outdoor Council.

SB 45 also makes a technical correction to the statutes governing vacation of RS 2477 rights-of-way and section line easements granted under former 43 U.S.C. 932. In addition, SB 45 provides concise direction in Title 29, the statutes pertaining to local governments, that is reflective of the procedures for easement vacation existing in Title 19.

SB 45 will assist in the effort to expand recreational opportunity for Alaskans and visitors alike. I urge your support for this legislation.

From: Mr. Howard Davis Jr.
PO Box 395
Clam Gulch, AK 99568
262-5124

Bill: SB 45 Title: LAND OWNER IMMUNITY/ RT-OF-WAY VACATION

Message:

The Caribou Cabin Hoppers with a membership in excess of 250 representing in excess of 1000 individuals, supports SB45, an act relating to tort immunity for personal injury or death.

Subject: SB 45
Date: Wed, 31 Mar 1999 07:52:36 -0900
From: gizmo@arctic.net (Lance Stevens)
To: "Senator Robin Taylor" <Senator_Robin_Taylor@legis.state.ak.us>
CC: "Michelle Trainor" <mtt@knix.net>,
"Senator Rick Halford" <Senator_Rick_Halford@legis.state.ak.us>

Dear Senator Taylor:

I am asking that you allow SB 45 to move out of committee. This is important legislation that will allow Alaska to become a state where trails are abundant and landowners who donate the easements are protected. So many of our trails currently cross private property at some point in the route that if we do not do something, long established trails could be closed due to a private land owner no longer wishing to risk is financial future in the name of public recreation.

If you have concerns on this bill I would like to help address them and look for ways to overcome them. As the legislative representative for ASSA, I would also like to express our thanks in supporting SJR 5. Keeping public lands open to the public is often under appreciated until something is taken away. We hope that you work with the supporters of SB 45 and not allow trails to be taken away from Alaskans.

Sincerely,

Lance Stevens

ASSA Legislative Rep.
17419 Kantishna
Eagle River, AK 99577
907-694-1825
gizmo@arctic.net
District: 25-453 Party: U Sex: M

Subject: Senate Bill 45

Date: Fri, 19 Feb 1999 09:55:06 -0900

From: "Scott Heidorn" <sheidorn@igloo.pplant.uaf.edu>

To: Senator Robin Taylor <Senator_Robin_Taylor@legis.state.ak.us>

CC: Senator Rick Halford@legis.state.ak.us

Dear Senator Taylor and Senator Halford,

It is great to see SB 45 with it's improvements to existing legislation. I hope these improvements will go far enough in meeting our ultimate goal and that is to encourage private property owners to open their land to public recreation use. Over the years two important issues have come to light as different states developed trail programs.

The first major change in legislation involved the issue of compensation. Compensation can take on a variety of meanings from offering a hind quarter of deer to the farmer that allows access, to property tax relief for trail access. Other forms of compensation include trail development improvements to property which result in increased property value or the offering of a gratuity for access. A variety of reward for access have become a necessity to initiate and maintain access. If SB 45 can address this issue as outlined in the model legislation I sent to you from the American Motorcycle Association it will be a better tool for me to work with.

Another issue many states are addressing involves frivolous law suits. Other states have found that private property owners are still at risk of having to defend themselves in court just to prove a law suit was frivolous. The states with successful trail programs are recognizing this and changing legislation to either allow the state to step in on the property owners behalf or developing an avenue for the courts to evaluate the case before the property owner is financially burdened.

SB 45 may or may not, in its current form, be the tool I need to preserve and promote trails for the snowmobilers whose economic impact state wide exceeds \$80 million annually. However, I am the one who will apply this legislation by trying to convince private property owners that they will not be burdened by allowing public access to their land. Thanks for all your effort on on SB 45 and I look forward to the day when we are successful in having lease agreements signed that allow recreational use of private property.

Respectfully,
Scott Heidorn

I'm

Subject: SB 45

Date: Fri, 2 Apr 1999 09:48:17 -0900

From: "Michele Trainor" <mtt@knix.net>

To: <Senator_Rick_Halford@legis.state.ak.us>

CC: "Lance Stevens" <gizmo@arctic.net>

Dear Senator Halford,

It is my understanding that SB 45 is momentarily stalled pending changes in its wording and interpretation. Liability is currently the single most contributing factor towards access denial. Alaska has probably one of the most complete trails system in the United States. However, with the threat of liability looming over landowners' heads, we are finding access routes severed and/or denied. No one can fault the landowner for such actions. Please, if there is anything the Alaska State Snowmobile Association can do to help this process along, do not hesitate to contact us. As it stands, our state association is one of the few denied insurance coverage for this very reason. Therefore, we cannot pass it on to local clubs. The ASSA appreciates all the help and attention you have given to this matter. Thank you so very much for your time and consideration.

Sincerely,

Michele T. Trainor

Michele T. Trainor
President, ASSA
mtt@knix.net



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
 committee name
 committee on SB 45, dated 4/14/99
 bill/ subject

As President of the Alaska State Snowmobile Association, I would like to offer my support for the passage of SB 45. Passage of such a bill is all-important to retain the natural trails system Alaska now posses. With the passing of lands into private hands, we are witnessing more trail heads severed and trails denied. Land owners often cite their willingness to allow trail access through their lands if they could be granted immunity. Unfortunately, we are not able to do that under current Alaskan laws. Additionally, the ASSA is one of the few, if not the only, state snowmobile association unable to obtain insurance coverage for itself or its club. Once again, this is a direct result of us unable to grant any immunity to land owners. No insurance company, including ones insuring other associations, will consider us. Passage of SB 45 will allow us to legally and lawfully pursue and retain a trails system in Alaska and obtain insurance for ourselves and the clubs. This can only serve to benefit communities and establishments along the trail routes.

Signed: Michelle T. Trainer
 Testifier
Alaska State Snowmobile Assoc.
 Representing (Optional)
P.O. Box 324 Delta Jct. AK 99737
 Address
907-895-4254
 Phone No.



ALASKA SNOWMOBILE REPRESENTATIVES ASSOCIATION

P.O. Box 243664 • Anchorage, AK 99524-3664 • (907) 258-3700

RECEIVED
MAR 30 1999

Ans'd.....

March 25, 1999

The Honorable Robin Taylor
State Capitol Room 30
Juneau, AK 99801-1182

Dear Senator Taylor,

I am writing to request your support in moving forward SB 45. This bill is vitally important to the snowmachine community. It is in fact necessary if we are to develop snowmachine corridors and trail access programs for Alaska. Many of our board members and constituents heard your comments last year concerning snowmachine trail development at the "Arctic Man" event. We were pleased to hear that you are supportive of trail development and access for Alaskan recreationalists and tourists. The entire organized snowmachine community is supportive of Senator Halford's bill. I know specifically that without passage of SB 45 the Anchorage to Eagle River corridor access trail will not be implemented by Fort Richardson's Commander. I am asking on behalf of A.S.R.A. and Alaskan snowmobilers that you help to get this bill moving ahead as soon as possible. I thank you for taking time to hear our concerns.

If I may be of further assistance, please give me a call at 907-266-2200.

Sincerely,

Max J. Lowe
President

CC: Tim Borgstrom, A.E.D.C.
Kevin Hite, A.S.S.A.
Glen Swann, A.S.C.



ALASKA BOATING ASSOCIATION



Rick Halford, Senator
State Capital
Juneau, Alaska
99801-1182

Subj. SB 45

Feb. 4th, 1999

Dear Senator Halford,

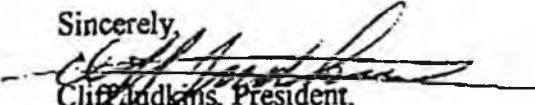
Thank you for introducing SB 45. I see this issue from two sides.

As an owner of remote property I allow snowmachines and dog sleds to cross my property at will. I have never had any property damage. People seem to respect private property. However, I am continually aware of the liability that I am exposed to; I just hate to put up signs and prohibit people from going about their business. I certainly feel the exposure and I can understand that people with less commitment to public access would close their property.

As President of the Alaska Boating Association, a member of the Alaska Outdoor Council and a member of the Mat-Su Fish and Game Advisory Committee I am continually confronted by cases of public access restrictions where it is necessary to cross private land to access public land. Anything that we can do to promote and assure equal access to Alaska's resources is worth the effort. We also support the technical correction concerning vacation of RS 2477 rights of way and section line easements.

Again, we are in full support of SB 45.

Sincerely,


Cliff Judkins, President,
Alaska Boating Association

Cliff Judkins - President • P.O. Box 874124 • Wasilla, Alaska 99687
(907) 373-3591 • Fax 373-3592 • E-Mail: cjudkins@customcpu.com



Alaska Outdoor Council

PO Box 73902
Fairbanks, AK 99707-3902
Tel./FAX: (907) 455-4AOC (4262)
outdoor@polarnet.com

FEB 08 1999

February 3, 1999

Senator Rick Halford
Alaska State Legislature
State Capitol MS 3101
Juneau, AK 99801-1182

Dear Senator Halford:

The Alaska Outdoor Council's board of directors voted unanimously to support Senate Bill 45, your bill relating to tort immunity and maintaining RS2477 right of ways.

Adopting SB45 as law will be a great benefit to public-spirited landowners who support public use trails and other uses on private lands. Our "litigious society" really chills those people's enthusiasm when the prospect looms of being liable in tort for injuries that are no fault of theirs. Without the protection afforded by SB45 a proliferation of no trespassing signs is predictable.

The second part of SB 45 is critically important to ensure that attrition of public access does not occur or is minimized. Under present circumstances the very limited expectations for new roads, railroads, etc. may lend credibility to the idea that RS2477 rights of ways are largely expendable. Following such a philosophy would be a great disservice to the outdoor user public. The public will have to rely more on legally sanctioned trails as increasing private ownership materializes, and access rules on federal areas become more rigid.

The Alaska Outdoor Council urges passage of SB45. Thank you again for your efforts on these vital public access matters.

Sincerely,

Richard H. Bishop
Vice President

P.S. Question arose: How would this relate to Dipnetters who pay \$10 state fee for access & services on Native Corp. land?



TELEPHONE (907) 894-4702

FAX (907) 894-1205

Chugiak-Eagle River Chamber of Commerce

P.O. BOX 770363
EAGLE RIVER, ALASKA 9957711401 OLD GLENN HIGHWAY, SUITE 110A
EAGLE RIVER, ALASKA 99577*"Place of Many Rivers"*

Chugiak-Eagle River Chamber of Commerce
Board of Directors
RESOLUTION 98-007

**A RESOLUTION IN SUPPORT OF A STATEWIDE TRAILS PLAN &
LIABILITY REDUCTION LEGISLATION**

WHEREAS the Chugiak-Eagle River Chamber Commerce is a community based nonprofit organization which encourages projects that allow for quality community growth and development in the state of Alaska; and

WHEREAS sufficient data exists demonstrating the positive recreational impact of regulated and controlled snowmobile corridors on communities in the lower 48 and Canada; and

WHEREAS in the State of Alaska there exists a significant number of people whose needs for local snowmobile infrastructure and other use opportunities have gone largely unmet; and

WHEREAS the state of Alaska currently has existing (as well as planned) world-class trails and infrastructure for other recreational user groups such as cross-country skiing and dog mushing; and

WHEREAS the creation of snowmobile infrastructure will complement the existing summer tourist industry thereby enhancing or creating year-round visitor industry jobs - which will benefit all affected Alaska communities; and

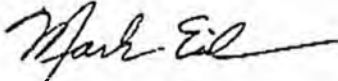
WHEREAS the Chugiak-Eagle River Chamber supports the development of snowmobile corridors which would create a state-wide trail system.

NOW THEREFORE BE IT RESOLVED that the Chugiak-Eagle River Chamber of Commerce Board of Directors recommends to the Governor and Legislature of the State of Alaska that these entities develop in an expeditious manner statewide trails design criteria. BE IT FURTHER RESOLVED that the Chamber of Commerce supports the creation of liability reduction legislation which would hold harmless landowners and other

entitles whose property becomes part of the statewide trails system.

Signed this 12th day of November 1998.

Respectfully submitted by,



Mark Eidem
President



APR 06 1999

SnoTRAC

Snowmobile Trails Advisory Committee
3601 "C St. #1280
Anchorage, AK 99503

March 30, 1999

Senator Rick Halford
State Capital, Room 121
Juneau, AK 99801-1182

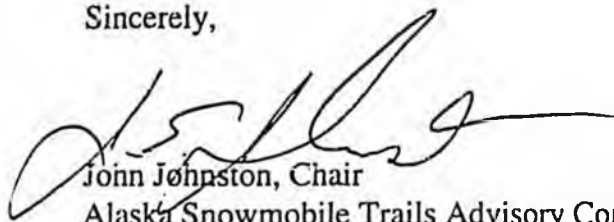
Dear Senator Halford:

At the March 19, 1999 regular meeting of the Alaska Snowmobile Trails Advisory Committee (SnoTRAC), there was unanimous support for a motion to support both Senate Bill 45 and House Bill 88, providing immunity to private property owners from liability when they allow recreational trail use across their property.

The committee feels very strongly that if traditional trails are to be protected in Alaska for the public good, and if new trails are to be established which may in part require crossing private property, that the state will need to provide some protection to property owners as provided in these two bills.

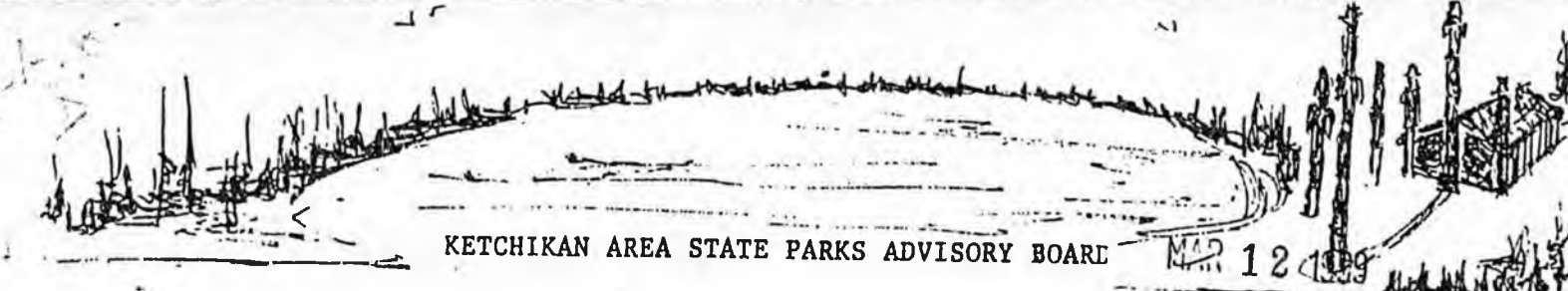
The SnoTRAC committee urges the Legislature and the Administration to enact this much needed new law.

Sincerely,



John Johnston, Chair
Alaska Snowmobile Trails Advisory Committee

cc: Sen. or Robin Taylor
Representative Norman Rokeberg



KETCHIKAN AREA STATE PARKS ADVISORY BOARD

MAR 12 1999

March 10, 1999

Honorable Rick Halford
Senate Judiciary
State Capital
Juneau, Alaska 99801-1182

Dear Senator Halford,

The Ketchikan Area State Parks Advisory Board has resolved unanimously to support the passage of Senate Bill 45, providing protection from litigation for private property owners who have trails crossing their land. However, we would like to see added a requirement that easements across private land be dedicated for continued public use.

The Board would appreciate very much your pushing the bill, getting it out and through the Senate process, with the addition mentioned above, if possible. We feel that this protection is necessary for both private land owners and the public interest. Free and open trails have long been a tradition in Alaska.

We also support House Bill 88 which has a similar goal of protection for the land owner and the dedication of trails to public use.

Thank you very much for your consideration.

Sincerely,



Robert Olsen, Chair
Ketchikan Area State Parks Advisory Board

RECEIVED
APR 3 1999

Asst. _____

SnoTRAC

Snowmobile Trails Advisory Committee
3601 "C St. #1280
Anchorage, AK 99503

March 30, 1999

Senator Robin Taylor
State Capital, Room 30
Juneau, AK 99801-1182

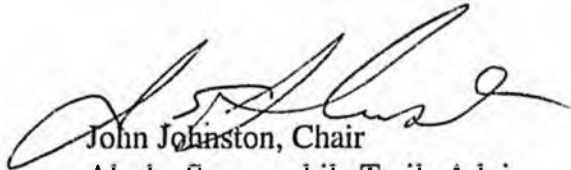
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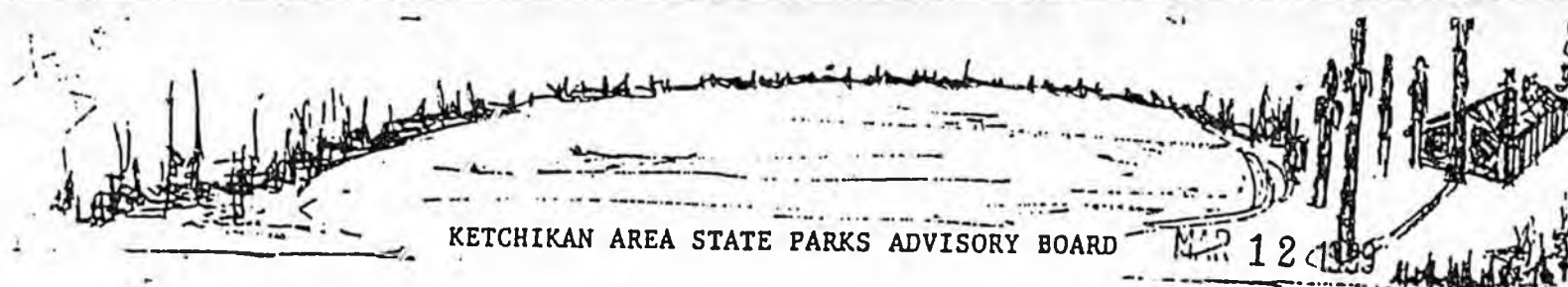
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Sincerely,



John Johnston, Chair
Alaska Snowmobile Trails Advisory Committee

cc: Representative Norman Rokeberg
Senator Rick Halford



KETCHIKAN AREA STATE PARKS ADVISORY BOARD

MAR 12 1999

March 10, 1999

Honorable Rick Halford
Senate Judiciary
State Capital
Juneau, Alaska 99801-1182

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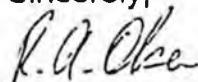
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Thank you very much for your consideration.

Sincerely,



Robert Olsen, Chair
Ketchikan Area State Parks Advisory Board



Official Business

Alaska State Legislature

Senate

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
Fax (907) 465-4928

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958
Fax (907) 694-0549

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

Senate Bill 45 Sponsor Statement

"An Act relating to tort immunity for personal injuries or death occurring on land; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date."

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Promoting recreational opportunity and establishing additional trail systems has become a priority for a number of groups and organizations around the state. We have received requests and/or support for this legislation from numerous entities including: the State Division of Parks, the Municipality of Anchorage, the Anchorage Economic Development Corporation, the City of Wasilla, the Wasilla, Palmer, Fairbanks and State Chambers of Commerce, the Alaska Snowmachine Association, the Mat-Su Motor Musers, the Alaska Boaters' Association, and the Alaska Outdoor Council.

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SB 45 will assist in the effort to expand recreational opportunity for Alaskans and visitors alike. I urge your support for this legislation.

Sponsor Statement

1-LS0066I ✓
Luckhaupt
3/19/99

CS FOR SENATE BILL NO. 45(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR HALFORD

A BILL

FOR AN ACT ENTITLED

1 "An Act providing that a person who grants a conservation easement to the state
2 that provides public access for recreational purposes is immune from tort liability,
3 other than gross negligence or reckless or intentional misconduct, for damages to
4 a person who uses the easement; relating to the vacation by the state or a
5 municipality of rights-of-way acquired by the state under former 43 U.S.C. 932;
6 and providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * Section 1. AS 19.30.410 is amended to read:

9 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision
10 of law, the Department of Natural Resources, the Department of Transportation and
11 Public Facilities, or another agency of the state may not vacate a right-of-way acquired
12 by the state under former 43 U.S.C. 932 unless

13 (1) a reasonably comparable, established alternate right-of-way or

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means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses;

(2) the right-of-way is within a municipality, the municipal assembly or council has requested the vacation, a reasonable alternative means of access is available, and the vacation is in the best interests of the state; or

(3) the vacation is approved by the legislature.

* Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

(59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

* Sec. 3. AS 29.35.090 is amended by adding a new subsection to read:

(b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This subsection applies to home rule and general law municipalities.

* Sec. 4. AS 34.17 is amended by adding a new section to read:

Sec. 34.17.055. Tort immunity from personal injuries or death occurring on land subject to a conservation easement. In addition to the immunity provided by AS 09.65.200, an owner of land subject to a conservation easement that has been granted to and accepted by the state and that provides public access for recreational purposes on the land subject to the conservation easement is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages to a person who uses the easement to enter onto or remain on the land subject to the easement if

(1) the person had no responsibility to compensate the owner for the person's use of the easement or the land; and

(2) the damages arise out of the person's use of the easement for recreational purposes on the land.

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

is not more than 50' in width and

HOUSE BILL NO. 88

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/10/99

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the liability of landowners and others for civil damages for
2 certain acts or omissions occurring on land."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 09.65.200 is repealed and reenacted to read:

5 Sec. 09.65.200. Immunity for civil damages for certain acts or omissions
6 occurring on land. (a) An owner of unimproved land is not liable in tort, except for
7 an act or omission that constitutes gross negligence or reckless or intentional
8 misconduct, for damages for the injury to or death of a person who enters onto or
9 remains on the unimproved portion of land if

10 (1) the injury or death resulted from a natural condition of the
11 unimproved portion of the land, ~~the person entered onto the land for recreation;~~ and

12 (2) ^{and} the person entered for ~~recreation~~ ^{recreational purposes}
13 person's use or occupancy of the land.

14 (b) In addition to the immunity provided under (a) of this section, an owner

1 of land is not liable for civil damages, except for an act or omission that constitutes
2 gross negligence or reckless or intentional misconduct, to a person who enters onto or
3 remains on the land if

4 (1) under AS 34.17 a conservation easement providing public access
5 to the land for recreational purposes has been conveyed;

6 (2) the person had no responsibility to compensate the owner for the
7 person's use of the easement on the land; and

8 (3) the civil damages arise out of the person's use of the easement on
9 the land.

10 *omit* (c) The immunity under (b) of this section extends to the grantee of the
11 conservation easement under AS 34.17 providing public access to the land for
12 recreational purposes.

13 (d) This section does not enhance or diminish rights granted under former 43
14 U.S.C. 932 (R.S. 2477).

15 (e) In this section, "unimproved land" includes land that contains

16 (1) a trail;

17 (2) an abandoned aircraft landing area; or

18 (3) a road built to provide access for natural resource extraction, but
19 which is no longer maintained or used.

1-LS0066H
Luckhaupt
3/18/99

CS FOR SENATE BILL NO. 45(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATOR HALFORD**

A BILL

FOR AN ACT ENTITLED

*Tighter title with
cannot be changed
in the House (died)*

1 "An Act relating to liability for damages to a person using a conservation
2 easement; relating to the vacation by the state or a municipality of rights-of-way
3 acquired by the state under former 43 U.S.C. 932; and providing for an effective
4 date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 19.30.410 is amended to read:

7 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision
8 of law, the Department of Natural Resources, the Department of Transportation and
9 Public Facilities, or another agency of the state may not vacate a right-of-way acquired
10 by the state under former 43 U.S.C. 932 unless

11 (1) a reasonably comparable, established alternate right-of-way or
12 means of access exists that is sufficient to satisfy all present and reasonably
13 foreseeable uses;

14 (2) the right-of-way is within a municipality, the municipal assembly

1 or council has requested the vacation, a reasonable alternative means of access is
2 available, and the vacation is in the best interests of the state; or

3 (3) the vacation is approved by the legislature.

4 * **Sec. 2.** AS 29.10.200 is amended by adding a new paragraph to read:

5 (59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

6 * **Sec. 3.** AS 29.35.090 is amended by adding a new subsection to read:

7 (b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality
8 may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This
9 subsection applies to home rule and general law municipalities.

10 * **Sec. 4.** AS 34.17 is amended by adding a new section to read:

11 **Sec. 34.17.055. Tort immunity from personal injuries or death occurring**
12 **on land subject to a conservation easement.** In addition to the immunity provided
13 by AS 09.65.200, ~~the owner of~~ an owner of land subject to a conservation easement
14 that has been granted to and accepted by the state and that provides public access for
15 recreational purposes on the land subject to the conservation easement ~~is~~^{is} not liable
16 in tort, except for an act or omission that constitutes gross negligence or reckless or
17 intentional misconduct, for damages to a person who uses the easement to enter onto
18 or remain on the land subject to the easement if

19 (1) the person had no responsibility to compensate the owner for the
20 person's use of the easement or the land; and

21 (2) the damages arise out of the person's use of the easement for
22 recreational purposes on the land.

23 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).