

SB

91

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/26/99

FURTHER: Finance

Date of 5-Day Notice: 3/4/99
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 4/12/99

Resources Committee considered

SENATE BILL NO. 91

"An Act relating to enforcement of subsistence hunting and fishing laws; and repealing the authority of the commissioner of fish and game to assist in the enforcement of federal laws and regulations pertaining to fish and game."

and recommends:

- be replaced with _____ CS SB 91 _____ (RES)
- 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>Sean Parnell</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>John L. Taylor</i>	<input checked="" type="checkbox"/>				
<i>Sybil Green</i>	<input checked="" type="checkbox"/>				
<i>Pete Kelly</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Rich Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
DPS	3/4/99		*
DOL	3/9		*
DF+G: Subsistence	3/8	X	
DF+G: Sport Fish	3/8	X	
DF+G: Wildlife Cons	3/8	X	
DF+G: Comm. Fish	3/9	X	

original
or

DF+G 4/10 X
 APPROPRIATION -- no fiscal note

DPS + DOL Fiscal notes pending

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 91(RES)

Revision Date/Time (Note if correction) 4/10/99 Dept. Affected Fish and Game
 Title Enforcement of Subsistence Laws BRU Commissioner's Office
 Component Commissioner's Office
 Sponsor Senator Taylor
 Requester Senate Resources Component Serial No. 2175

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
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

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: 0.0

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the Department of Fish and Game from this bill.

Prepared by Geron Bruce
 Division Commissioner's Office
 Approved by Commissioner Frank Rue *Geron Bruce*
 Agency Alaska Department of Fish and Game

Phone 465-6151
 Date/Time 4/10/99
 Date 4/10/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

1-LS0319\H
Utermohle✓
3/26/99

CS FOR SENATE BILL NO. 91()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to enforcement of subsistence hunting and fishing laws; and
2 repealing the authority of the commissioner of fish and game to assist in the
3 enforcement of federal laws and regulations pertaining to fish and game."

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

5 * Section 1. AS 18.65 is amended by adding a new section to read:

6 **Article 11. Miscellaneous Provisions.**

7 **Sec. 18.65.950. Enforcement of subsistence hunting and fishing laws. (a)**

8 Notwithstanding AS 18.65.090, the Department of Public Safety may not enforce, or
9 directly assist the enforcement of, a federal statute or regulation governing eligibility
10 to engage in subsistence hunting or fishing in the state if the statute could not be
11 enacted by the state or the regulation could not be adopted by a state department or
12 agency because the statute or regulation violates either the Constitution of the State of
13 Alaska or the Constitution of the United States. This subsection does not apply to
14 assistance provided to a federal law enforcement officer by the Department of Public

1 Safety that is necessary in the unforeseen absence of available assistance from a
2 federal source, regardless of cost, to avert a present and substantial risk of physical
3 harm to a person.

4 (b) Except as provided under (a) of this section, an employee or law
5 enforcement agent of a state department or of a state agency or a police officer
6 employed by a municipality may not enforce, or directly assist the enforcement of, a
7 federal statute or regulation governing eligibility to engage in subsistence hunting or
8 fishing in the state if the statute could not be enacted by the state or the regulation
9 could not be adopted by a state department or agency because the statute or regulation
10 violates either the Constitution of the State of Alaska or the Constitution of the United
11 States.

12 * Sec. 2. AS 16.05.050(a)(1) is repealed.

Alaska State Legislature

Chairman,
Judiciary Committee
Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



Senator Robin L. Taylor

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

SPONSOR STATEMENT

SB 91

Enforcement of Subsistence

SB 91 makes it very clear that in Alaska, only Alaskan governmental agencies may exercise enforcement activities regarding fish and game resources. This legislation is necessary and will, by its enactment, further restrict the federal government's encroachment on Alaska's Sovereign authority to manage our wildlife and fish resources.

Currently, AS 16.05.050(a)(1) requires the Alaska Department of Fish and Game and the Commissioner of Fish and Game to cooperate with the federal government in enforcement of federal regulations. This legislation also repeals that section.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CSSB 91 (RES)

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to enforcement of subsistence hunting and fishing laws; repealing the authority ..."	BRU	Criminal/Civil Division
Sponsor Senator Taylor	Component	Criminal Justice Litigation
Requester Senate Resources	Component Serial No.	Natural Resources
		2202/2212

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

CSSB 91 (RES) prohibits employees or law enforcement agents of a state department or of a state agency or a police officer employed by a municipality from enforcing federal laws or regulations relating to subsistence hunting and fishing in Alaska if those laws or regulations are in conflict with either the Alaska or U.S. Constitution.

It is anticipated that any demands on department legal services generated by passage of this bill will be minimal, and can be met by existing staff.

Prepared by <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>4/13/99, 10:33 AM</u>
Approved by Commissioner <u>Bruce M. Botelho</u> <i>Bruce M. Botelho</i>	Date <u>4/13/99</u>
Agency <u>Department of Law</u>	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO: SB 91

Revision Date: March 4, 1999
 Title: An Act relating to enforcement of federal
hunting and fishing laws
 Sponsor: Senator Taylor
 Requestor: S. Resources

Dept. Affected: Public Safety
 BRU: Fish and Wildlife Protection
 Component: Detachments
 COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-*-	-*-	-*-	-*-	-*-	-*-
CAPITAL	-*-	-*-	-*-	-*-	-*-	-*-
CHANGE IN REVENUES ()	-*-	-*-	-*-	-*-	-*-	-*-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-*-	-*-	-*-	-*-	-*-	-*-

Estimate of current year (FY 99) impact: \$ -0-

POSITIONS:

FULL-TIME	*	*	*	*	*	*
PART-TIME	*	*	*	*	*	*
TEMPORARY	*	*	*	*	*	*

ANALYSIS: (Attach a separate page if necessary.)

This bill's fiscal impact is unknown but is potentially substantial if the same level of resource enforcement presence absent federal assistance is required.

Prepared By: Lieutenant Howard R. Starbard
 Division: Fish and Wildlife Protection

Phone: 746-9107
 Date: March 4, 1999

Approved by Commissioner: Ronald L. Otte
 Agency: Department of Public Safety

Date: 3-9-99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. SB 91

Revision Date/Time (Note if correction)	_____	Dept. Affected	Law
Title	"An Act relating to enforcement of subsistence	BRU	Criminal/Civil Division
jurisdiction to ma	hunting and fishing laws; repealing ..."	Component	Criminal Justice Litigation
Sponsor	Senator Taylor		Natural Resources
Requester	Senate Resources	Component Serial No.	2202/2212

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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

SB 91 sets up a direct conflict with federal law by making it illegal for federal employees to enforce federal statutes and regulations that are inconsistent with the Alaska Constitution. The United States will likely challenge this provision in Federal Court to protect its employees from the threat of prosecution by the State of Alaska. Defending the law in the resulting lawsuit will have an indeterminate, but significant, workload and financial impact on the department. In addition, there will be costs involved in prosecuting federal employees who violate the law.

Prepared by Joan M. Kasson *Joan M. Kasson*
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho *Bruce M. Botelho*, Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 3/9/99, 3:21 PM
 Date 3/9/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB91

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Enforcement of Subsistence Laws BRU Subsistence
 Component Subsistence Special Projects
 Sponsor Senator Taylor
 Requester Senate Resources Component Serial No. 484

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
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
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES (1002)	0.0	0.0	0.0	0.0	0.0	0.0
----------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other - F&G Fund (1024)						
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						

ANALYSIS: (Attach a separate page if necessary)
 There are no fiscal impacts to the Division of Subsistence.

Prepared by Robert J. Wolfe
Subsistence
 Approved by Commissioner [Signature]
 Agency Alaska Department of Fish and Game

Phone 465-4147
 Date 3/8/99
 Date 3/8/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 91

Revision Date (Note if correction) _____ Dept. Affected: Fish and Game
 Title Enforcement of Subsistence Laws BRU Sport Fish
 Component Sport Fish
 Sponsor Senator Taylor
 Requester Senate Resources Component Serial No. 464

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
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
CHANGE IN REVENUES (1002)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

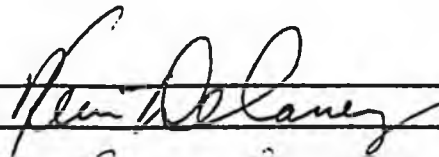
Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill as written will neither require the Division of Sport Fish to increase expenditures, nor will it create any revenue. This is a zero fiscal note.

Prepared by Kevin Delaney, Director  Phone 465-4180
 Division Sport Fish Date 3/8/99
 Approved by Commissioner Geison Bruce for Date 3/8/99
 Agency Alaska Department of Fish and Game

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 91

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Enforcement of Subsistence Laws BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Taylor
 Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY00	FY 01	FY 02	FY 03	FY 04	FY 05
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
CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
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: for Wayne Regelin, Director
 Division: Wildlife Conservation
 Approved by Commissioner: Beron Bunn
 Agency: Department of Fish and Game

Phone: 464-4190
 Date: 3/8/99
 Date: 3/8/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 91

Revision Date/Time (Note if correction) _____ Dept. Affected Fish and Game
 Title Enforcement of Subsistence Laws BRU Commercial Fisheries
 Component Headquarters Fisheries Management
 Sponsor Senator Taylor
 Requester Senate Resources Component Serial No. 2171

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
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

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: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Kevin Duffy, Acting Deputy Director
 Division _____
 Approved by Commissioner Frank Rue *Kevin Duffy for*
 Agency Alaska Department of Fish and Game

Phone 465-6151
 Date/Time 3/9/99 9:07 AM
 Date 3/9/99

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office