

**SB**

**85/170**

**(FILE 4)**

NOME  
SB170

Testimony on SB 170

I have some concerns over the proposed bill as follows:

1) Under the proposed changes to AS 16.05.094, the State would collect information on subsistence users on their, "compliance with state fishing, hunting, and trapping license requirements." I have concerns about this information being collected and made public. I have further concerns that the subsistence users are being singled out. No other consumptive user group is being looked at by the State under this proposed bill.

2) Under the proposed changes to AS 16.05.130(d), the revenue collected by the state and matching Federal funds are diverted to ONLY benefit consumptive users of fish and game resources. I believe that non consumptive, (such as wildlife viewing) users should benefit from these funds. The proposed language also requires the Department to allocate resources to track the funds being spent on projects that do not directly benefit consumptive uses. This seems like a very difficult and time consuming burden that takes away resources from the Department.

3) Under the proposed changes to AS 16.05.340(a)(2), resident license fees double. At a time when gas is \$4.00 per gallon in Nome, this increase in basic license fees will make it more difficult for bush residents to comply with state law. Such a huge spike in license fees also seems rather abrupt.

4) Under a new subsection AS 16.05.930, the State is creating a potential market of fish and game resources by allowing the sale, barter, or purchase of game and fish. I am concerned that this potential market may impact the harvest of game and fish resources by creating a financial incentive to harvest our common resources by a select few at the detriment of all of us.

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Senate Resources Committee Work Session

Nome, Alaska October 10, 2005

SB 85 – Dalton Highway and SB 170 – Fish and Game Powers & Duties

6:45pm

Present: Senator Tom Wagoner, Chair, Senator Ralph Seekins, Vice-Chair, Senator Kim Elton, Member, and Senator Donny Olson.

There was no public signed up to comment on SB 85, so Chair Wagoner invited Senator Seekins, to introduce SB 170.

Senator Seekins: As history, the Department of Fish and Game indicated they would like to increase costs for tags and licenses, which lead to the question of what do you do with the money now, and what will you do with the money if you get more. Those revenues would go into the Fish and Game fund and all matching federal funds would also go there. AS 16.05.130 – Diversion of Funds Prohibited, states that, except as provided in (c) of this section, money accruing to the state from sport fishing, hunting, and trapping licenses, tags, or permit fees may not be diverted to a purpose other than the protection, propagation, investigation, and restoration of sport fish and game resources and the expenses of administering the sport fish and game divisions of the department.

Further on in subsection D it says: "Revenue from the sale of general hunting, trapping, and fishing licenses and tags together with the federal matching funds from Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs shall be allocated by the department to programs intended to directly benefit license purchasers of general hunting, trapping, and fishing licenses. The department shall prepare an annual report by project of expenditures from the fish and game fund and notify the legislature that the report is available."

When I asked for that report I was told it was not available. The answer was that "project" was not defined in statute, so the report was this much money came in and this much money came out. I believe the Department is working on trying to assure a by-project report will be made available to the legislature. Part of the intent of this bill is to ensure that it will be made available to not only the legislature but also to the general public on the web site.

So that is one purpose of the bill, but like other bills, it has grown and several sections were added at the request of many hunters and fishers around Alaska. The current draft of the bill is "L".

Section one expresses the intent that revenue generated by the increase in hunting and trapping fees be used to maximize hunting and trapping opportunities and those revenues used for species for which general human consumptive use exists. This is consistent with sustained yield principles and our constitution.

Section 2 of bill amends 16.05.020, to provide that the commissioner shall protect only resources for consumptive uses. The intent is to obtain abundance for maximum sustained yield for human consumptive uses. The intent is to get focus of department back to providing food for human consumptive uses because there is strong public belief that the mission of the department has

focused on other non-consumptive projects. Abundance would mean that people in urban areas can harvest close to home so they don't travel to rural areas to harvest.

Section 3 of bill amends numerous areas in 16.05.050 about the powers and duties of the commission of fish and game. Subsection (c) provides that the commissioner uses his authority only for those that the board of fish or game authorizes, or to the extent provided by law. The Legislature is the primary trustee of the resources, they are public trust assets owned equally by Alaskans.

We assign certain responsibility by law to the Boards of Game and Fish and the Department. The intent here is that the focus is directed by the legislature unless they provide otherwise by law.

He then pointed out that there are great concerns by people watching programs like the state wildlife grants, where the federal government may commit the state to certain management priorities that are not approved by the legislature or game or fish boards, or the advisory commissions throughout the state.

He also noted that there are people (who don't pay into the funds) who would like to have use of the hunter and fisher funds, but the primary focus with this bill is to make sure that those funds are used for primary purpose of sustained yield for consumptive use of fish and game.

So the question is are you willing to give the department more money to return Alaska to an abundance of fish and game - to real management of its fish and game. That is the gist of the bill. Put the matter on the table, let's discuss it, and see what folks are thinking.

Senator Elton: Question of the sponsor, about section 5 provisions?

Senator Seekins: Section 5 - One of things brought to his attention is that the use of subsistence licenses in some areas have been abused. I know of some people who have homes in Arizona, some are over 60 and no longer have to purchase a license, and from their Alaska summer home, "subsistence" hunt. I would like to see data on the people who claim this license - it can be gathered along with other data and be provided to Boards of Game and Fish.

Senator Elton: As a follow-up, I don't expect the sponsor to answer right now, and to alert the Department of Fish and Game, is, under his reading of the bill, that it seems as if the subsistence division would not be able to get money from the fish and game fund. And it seems, especially if we are adding a requirement that they get licenses, that money would go to the fund. Is that the correct reading of the bill?

Senator Seekins: If money came from the people who bought licenses, under the way the bill is written, it would go into the fish and game fund, where it would be used for the benefit of the people who bought licenses.

Senator Elton: It seems to me, and I may be wrong, but that the fish and game fund dollars would go to wildlife, sport fish, and not necessarily to habitat or subsistence.

Senator Seekins: I don't know – but habitat is in the Department of Natural Resources and subsistence, if you produce an abundance of game then you are providing for subsistence users who have a higher priority and you are also providing for consumptive users who don't qualify as subsistence users. A rising tide raises all ships here – if the emphasis of the Department is on producing an abundance for human harvest, it addresses the needs of subsistence users and others. So to say it couldn't be used for subsistence is overlooking the fact that the mission of the department is to provide primarily for human consumption, which is subsistence users.

Senator Olson: One question, how is this date going to be used against subsistence users?

Senator Seekins: I don't know that it would – it is supposed to be provide information on who are real subsistence users and who are phony that don't fall under the definition. He can show homes on Gulkana River who are barely Alaskans and certainly not subsistence users.

Senator Seekins: There are some other sections of the bill that address questions with current law. For example, if you shoot a trophy moose, leave it to your estate and die, your family can't sell the trophy mount it unless they take it out of state. If you meet them there they can sell it and then you can bring it back to Alaska.

Chair Wagoner then took public testimony on SB 170 (no one signed up for SB 85).

Austin Ahmasuk: The first thing he pointed out is that the only version he had access to is version "I", and he was just know show how to get access to the new version. So there needs to be work done to let people know about the other version, it's a lengthy bill.

He agrees that the Department needs more funding – he is an elected advisory committee member and is the subsistence director for Kurroak. The advisory committees only meet once per year because of the funding they receive from the legislature. Their region is extremely under funded.

Section 2, Functions of the Commissioner, greatly politicizes what that person normally does to manage the resources. It's something he feels can vary at the whim of these governor appointees - issues go back and forth and things can nearly turn upside down in terms of subsistence.

Section 3 – It appears that the Board of Game and Fish are stripping what the Commissioner does. While there are many positive points to having some sort of checks and balance system, politicizing it is dangerous and may add more time to the Board of Game and Fish cycle for regulation development or interaction with the Commissioner.

Section 4 – It appears that what is being proposed is to leave totally in the hands of governor creation of divisions. As we saw with the move of Habitat to DNR, this only strengthens to do the wrong thing.

Section 5 – This is a very drastic change in what they normally due for the residents of our region. This Division has a long-standing duty and tradition of gathering data that formerly and currently assists the board of game and fish in developing regulations. If the division of

subsistence merely collects information and compares and contrasts with how people follow laws, it is a very bad thing for residents of our region to endure. You need to recognize that in our region, license vendors, postal delivery, internet service is not always reliable. There are communities that go for months without phone or mail services. He doesn't know that in reckoning out how subsistence users buy licenses and then on top of that, being required or subjected to management, when people of our region actively co-manage – they assist the department in making regulations and make regulations better for all Alaskans. This turning the division of subsistence into an enforcement arm is not something he would favor.

Section 6 is a very peculiar and confusing section. He doesn't know what is being accomplished, the best he can reason is that that after appropriations have been made – you would then again appropriate. Which in his mind leaves it to those who are close to Juneau to lobby you – it leaves out people here in the Nome area because they don't have a lot of resources to get to Juneau to lobby for a project. This section leaves to a whim of appropriation those with the most ability and the greatest ability to do so.

Section 7 is not favorable for the same reasons as section 6. It leaves into the hands of the legislature after you have appropriated to appropriate again.

Senator Seekins: Where's is the double appropriation – he is confused?

Austin Ahmasuk: It says, under section 6, it is indicated that the fish and game fund shall be made up of the following money and other money the legislature appropriates, then again it is said that in accordance with appropriations. His read is that the legislature will appropriate and then appropriate again.

Senator Seekins – for clarification, for the fish and game fund, if you look further up where it comes from, you can see that it primarily comes from license, tags, federal funds and any other money the legislature appropriates in there, which would be very little. It basically says that it would be spent in accordance with the appropriations made by the legislature. For example, we could appropriate monies to the fish and game fund for additional studies for wildlife. I think we just did that, in the last legislature, we appropriated \$250,000 to be used for census, so we would expect when we appropriate it into the fund it would be used for that. That is what was meant to portray.

Austin Ahmasuk:- thinks that this particular clause would be tested in court.

Senator Seekins: this is the way drafters put the language in the bill and what they thought it meant.

Austin Ahmasuk:Section 7 – he believes those are interdepartmental accounting and perhaps it is an improvement.

Section 9 – he sees an attempt here to gather and funnel funds to the department which may improve the situation and if that indeed is the intent then he is fairly supportive.

Section 10, 11 and 12 no comment.

Section 13 is in his opinion, a very peculiar section to add in Alaskan law. It reads similar to 258 the classic subsistence law. It is very unclear to him as to how a board of fish or board of game with multiple priorities would be able to make decisions that allow for either priority. Consumptive use, in his opinion, could be any consumptive use – like commercial fishing – so that it, just like subsistence, is a priority. How the board then is expected to handle that dual priority is very confusing and he envisions that there would be extreme problems when it comes time to develop those regulations.

Section 14 – no comment.

Section 15 – this is for intensive management. He supposes that if this particular section were to be approved, and if it were to specifically name a process or laid out some framework for how this intensive management is done, the intensive management, then the “who” that is being asked to develop these management plans, might better suit the issue. But he believes leaving the issue as it is now is adequate. A mishmash of persons who may not be informed about certain things and deriving and making or suggesting intensive management laws, even if it’s subsistence users, he believes it still requires a coordination between what subsistence users and who and when and which agencies that they choose to deal with regarding these matters. We have systems in place to carry out those mandates.

Senator Seekins: To give Austin some idea of this ... is that one of the things we are constantly faced is anti-hunting groups trying to challenge the determination by the board of game that an area go into intensive management - they say we don’t have enough data. You need to study for another 5 years before you can make a decision. We’ve had at least 2 lawsuits – is that right Matt? (unclear from audience) Do you know what your authority is on the advisory committee? If you make a suggestion to the Board of Game and they don’t follow it, there has to be an explanation. We are trying to get to the point where a reasonable person who has field experience can give input to the process, it doesn’t have to always be a published, peer review biologist to come up with the findings necessary for an intensive management situation.

We are trying to lower the bar in terms of the amount of scientific evidence that is necessary in order to defend it in court. So we can say to someone, who lives in the Nome area, what’s happening up there, and they say the bears are overpowering the moose, I know because I’ve seen it. As a result of that, you can use that as part of your determination that an area needs to fall into intensive management to reduce the predators, without it being challenged in court as unscientific, not enough, not thorough enough. So that we don’t get into what he calls a C O and F D - confusion, obfuscation and foot dragging.

A lot of that goes on by people that don’t like those of us that hunt and fish and would like to stop it, and who would like to eliminate any predator control programs. We are trying to make this a less easily challenged standard in the courts, that’s what the intent is. Quite frankly, it is to give you greater impact on your input from the advisory committees.

Austin Ahmasuk: Section 17 – no comment.

Section 18 – it’s hard to follow what’s going on because the new sections are not underlined. The additions of k and l, again adds to a confusing dilemma the board of game and board of fish may be faced with when it comes time to make regulations.

Senator Seekins: Let me explain a little here as well. Have you seen the 600 plus pages, 800 or so by now, state wild life grant document? You can get it on the website. What we are trying to say here is that the department can't unilaterally set policies to apply in the state of Alaska - there has to be some checks and balances through the board of game process. What that is - we don't know, but we don't feel comfortable that a select group of people can come in and put together 75 different management programs.

Some of which do things like manage eelgrass invertebrates or sea lice, or establish separate subspecies for Kenai Peninsula brown bears and bind the State Alaska into a management plan that has not public review to the same extent the board of game or fish would do. We are just trying to say look, the Commissioner, a political appointee, can not propagate a management system that has not had the same opportunity for public scrutiny that the board of fish or game puts in place.

It would require additional support in terms of dollars, but since he has been in the legislature, we've given the department every dime they asked for in terms of board support. This year we bumped it up \$100,000 after cutting it back \$250,000 over the previous years. And at the same time we cut back and only allow one meeting a year for advisory groups, we are putting together study groups and funding those, who don't have the same statutory authority of the advisory boards. At the end, the study be either meaningless or used as an authority. He agrees with speaker and would like to see that. What he's trying to go back to is to breathe life into the statutory system of boards of game and advisory. This is targeted at the wild life grant scenario. He trusts the gentlemen here but this is a political process and they may not be here next year. He's trying to make the system more open to public scrutiny and a little more difficult sometimes, but let's put the authority back into the statutory system.

Austin Ahmasuk: The section indicates that utilization of these species and determination thereof is based solely upon uses that have been authorized by the board of game or board of fish. There are many fish and game species for which the board of game has not authorized regulations. Those are not subordinate uses, white fish, tom cod, marine mammals, those are very important subsistence uses that appear to be subjugated to a subordinate priority here. I don't believe that I'm reading anything different here than what I have indicated here.

Senator Seekins: Mr. Chairman, marine mammals are outside the management purview of the state of Alaska, it's federal and can only be done by contract so that's why they have not been addressed.

Austin Ahmasuk: Section 19 - it's proposed that persons who engage in subsistence hunting and fishing shall possess a valid resident sports fishing license. For reasons that I cited earlier, license vendors are not 100% reliable in our regions and so persons cannot always obtain those things. People in our region are poor and granted there are provisions for low income licenses, they largely are not purchased. Regardless of that scenario or situation, many of our people believe that by manner of what they are what they do and what they make, how much money they have available to them, do not purchase licenses. Such a requirement is already in law and doesn't need to be restated to us.

Regarding the increases, he does approve non-resident hunting and fishing fee increases but does not support resident increases.

Senator Olson: Asked a question of the sponsor on Section 19, where it says that a person engaging in subsistence fishing and hunting shall possess a resident sports license - how does it read now, without the section being added? Is it correct to assume that subsistence hunters and fishers don't currently have to have a license?

Senator Seekins: I don't believe that is correct but Mr. Robus can probably answer that.

Matt Robus (Director, Division of Wildlife Conservation): Right now subsistence hunters are required to have a resident hunting license but fishers are not because it's designated sport fishing - commercial fishing .... (unintelligible).

Senator Elton: What about waterfowl?

Matt Robus: Waterfowl needs state and federal stamps (unintelligible).

Senator Seekins: Intent here is not to unnecessarily burden those people in very remote parts of the state of Alaska but there are many subsistence areas in not so remote areas who abuse this situation regularly. There is no reason why a retired Alaska airlines captain who lives in Cantwell, Alaska should not buy a hunting license to be a subsistence user. To avoid that, for whatever reason, puts them in the same category (to many of the people that are hunters and fishers who do contribute) of being a free rider without cause. It shouldn't be too hard for someone in Nome to get a license. In many of the remote villages he visits on a regular basis in the interior have better computer access than his grandchildren have. He's not trying to put an undue burden on anyone. But by making a \$5.00 fee they are at least contributing something to the process. Most people really don't mind contributing to a degree that they can afford.

No one is trying to say if you couldn't get a license you shouldn't hunt or fish to feed your family. But you do have a duty to become a full member of the system, so to speak, to come up with the management funds necessary to make sure you could continue to harvest. That's the intent, not to be draconian. He knows many people who live in the interior regions who are true subsistence users that say I don't have much money, but I want to be a real part of the system too and if that is too hard, we can find a way to come up with the \$5.00. This is trying to take the phony subsistence user and at least make them buy a \$5.00 hunting license. He knows of many wealthy suburban owners with three or four snow machines on the back - subsistence hunting and he has a problem with that.

Senator Olson: He thinks section 19 certainly has its people that are going to be caught from abuses from the system. But to try to catch one person that lives down on the road system while putting the burden on 10,000 people out in bush Alaska, with all due respect. We all know about Tom Cod Tod who sites an 80 year old lady fishing on the jetty who then had to go to court. That's where the distaste comes from, oppressing those that are out here because of trying to catch the 1/2 percent of people who are living outside the area.

He's not saying the concerns aren't valid but there are subsistence users not aware of this, if you get an overly aggressive enforcement you have a problem. He personally had a situation where at 2am on the Teller highway he had to land at the side of the road. His airplane was hit by a state trooper who said he was catching snaggers - at 2 in the morning - thankfully we make sure he then got transferred out of the area. He was personally involved with it and took offense, and he's an elected official. But some poor man who doesn't speak English or lady who is elderly doesn't have the same defenses. He is concerned with this section and would like to talk to the sponsor about this section.

**Senator Seekins:** His son is a prosecuting attorney and he would not have prosecuted that poor lady - he agrees, that's terrible and stupid.

**Senator Wagoner:** We're going to have to leave here at 8:30 so let's go on.

**Austin Ahmasuk:** The last couple sections regarding fish and game, it appears to concentrate effort on management on only those fish or game species for which there are authorizing regulations. There are fish and game species for which there are no authorizing regulations - primarily fish. These species of fish are not subordinate to any subsistence resource. Many of them are caught in large quantities and represent a substantial portion of our diet. There's a section within this bill that requires legislative approval of co-management agreements. The fact that people do not purchase licenses in our region - there are co-management agreements to specifically document those subsistence uses. Those have been very efficiently run systems and projects and document exactly what the licensure process are there for - a listing of who hunts, what they get, who they are, some sort of a roster. They adequately replace licensure. Thank you for your time and coming to Nome.

**Senator Wagoner:** Thank you for testifying and rest assured that probably the first month we are back in Juneau, in January, we will be having additional hearings on this bill so you have plenty of time to review and make additional comments in writing or through the L.I.O.

**Rose Fosdick:** Welcome to Nome. She has not had a lot of time to review the bill but she has some points to consider. First, the bill was lengthy and complicated - it's hard to read it at times where some text is underlined and some is not and at the end, there are two statutes suggested for repeal which were not printed or bracketed and she didn't have time to check the references out.

In regards to subsistence division, this bill reduces the effectiveness and validity of an important part of fish and game. It reduces the department's ability to recommend actions to the boards of game and fish. Instead, it creates a special unit to report on consumption of resources by people who are subsistence users and she objects to that intent.

The legislature is given final authority for appropriation of fish and game funds which places the decision in a political forum, where people will have to lobby for those funds and she doesn't care for that. This region wants to benefit from the Pittman-Robertson funds also and if you are changing the distribution streams for this revenue, please distribute them to this region equitably.

She objects to the resident license fee increases, especially for those, according to this bill, who would be required to show proof of eligibility. It would create another layer, and IRS tax documents might be required for this proof as well as Division of Human and Family Service eligibility.

New section, permit deferral fee, she doesn't understand – just put the funds in the right columns in first place. Finally, the word "Wildlife" is included as a replacement for game - it is confusing and she doesn't quite understand. The document she looked at was "I" and she will take a look at the other one, version "L".

Senator Wagoner: We may have several more versions before this is over, we may get to Q.

Senator Seekins: Maybe I can help with a couple of things. First of all, the way it's drafted, it's the rules we have to go through. Any time you see that it's amended by added new subsections, it means that all of it is not in current law. But if you see where it says amended to read, then those notes at the bottom, text underlined, will come into play. Those are drafting rules in providing text with bills and it's a little cumbersome.

The permit deferral fee section was suggested by a member of the board of game and dealt with wildlife refuges where a population may be eligible for harvest. We put it in the bill at that request – it says if you're a tree-hugger and want to save a bear, you can pay \$30,000 for a bear for one more year of life, then ok, but he's not particularly enamored with that section. It's there for discussion.

On the term wildlife, quite frankly we are trying to get the words in the proper juxtapositions. In that game is game, he's an advocate of making sure there's not a board of fish and wildlife. The focus should be on game animals to provide food for humans primarily and wildlife is an all-inclusive term but they don't want to water the word "game" down.

The Pitman-Robertson funds are matching and go to the direct benefit of people buying licenses for hunting and fishing and, in his opinion, should make more money available for all regions.

Rose Fosdick: Are you tracking the revenue that comes from Pitman-Robinson?

Senator Seekins: Don't mean this to be inflammatory to my good friend Mr. Robus, but I can't track any of the money that's being spent in the division of game and that's part of his complaint.

Senator Wagoner: Would you do me a favor, go to the LIO at your convenience and fax a copy of your comments and questions to Mary Jackson for our records?

Roy Ashenfelter: He was born and raised on White Mountain and sits on the local advisory council in Nome as chair for some 10 years. He hasn't had a chance to read the bill, but heard some comments that concern him. As a chair, he goes to the board of game and fish meetings and presents minutes from the AC meetings and listens to the public about their concerns. The public also has the opportunity to submit proposals to the AC or the Board of Fish or Game.

At the same time, the subsistence division gives a report to the board of game or board of fish. He thinks those reports are very thorough. Last year in Barrow, there was a very thorough report

on Teller. The focus was on what do you do with the game, how much to you catch, with whom do you share it. There was a single man and he provided to two or three different families. One person will share it with other people and it's very common, it's the way things are done. He doesn't violate any rules but he provides and, as a single man he gets things in return like those homes he helped would feed him as though he was a member of the family. So there are reciprocal benefits to providing and sharing. There's other people there he's probably also looking after like a widowed lady. The point is that the subsistence division, if you look at the reporting and what's going on, they provide a very good report to the board of game and fish. There are instructions provided by the boards if they are not thorough enough to go back out and question.

In terms of dollars and focus, he's been on the AC for over 10 years. They used to have two meetings a year. They now have one meeting per year. The funds for meetings of council are cut so low that they only have a round trip ticket and a place to stay – no funds for anything else. The per diem is about \$35 and takes 3 weeks so they are here on their own dime responding to the departments needs – it's a very poorly run and supported system. Even if you change to this bill, you haven't funded it. Why not look at current system, find loopholes and fix them.

Senator Wagoner: Let me ask you while we are on the AC's – what would be the optimum number, 3 or 4 times a year – what was the number before the budget cuts?

Roy Ashenfelter: There are two reporting periods in the process. One, there's a deadline for proposals, in this case the deadline was June 30. We had an AC meeting the last week in June to submit proposals to the Board of Game. That's a very important meeting because you want peoples input and 30 of the 40 proposals are from our region for moose and musk ox and whatever else for the coming year. So that's one meeting and that was funded in conjunction with the musk ox and co-operators meeting where different agencies helped fund people coming in, provided per diem, so we maximized that meeting.

The next meeting is tomorrow and has to do with the proposals themselves. We as the AC have an opportunity to look at all proposals, talk about them and make comments and then he, as chair, gives the information to the board of game which he attends. So you should try to get at least two meetings per year funded.

The Board of fish has the same cycle but during different time periods. What we end up trying to do is to have our AC meeting deal with both Fish and Game. We need hotel and per diem because there can be a problem of a quorum. Anchorage and other areas don't have this problem of getting there where they just drive to the place. Obviously, if you live out in a rural area and have to fly in to get in, you are asking people who are employed to take off job and do the meeting. The same board or same person coming to any other meeting is going to get their room paid for, per diem, it encourages them to participate. It's a system that needs to be looked at in terms of funding.

Senator Wagoner: So 2 meetings per game and 2 meetings for the fish, four annually.

Senator Seekins: When you go to meetings, do you get travel, hotel and per diem?

**Gov Ashenfelter:** Yes, if you are a chair you can stay for the whole period and they pay a per diem of \$35.00 a day, which is not very much.

**Senator Seekins:** Part of the problem when we talk about this, and we're going to correct it so we can address it, is that we don't know where the money is going. The legislature is the trustee and we look to the local AC's and the boards. If it is short changed, in his opinion, the legislature is not living up to their duty as a trustee of the resource. He hears it all over that the AC's don't get the funding they need to hold hearings they are required to by statute. But on the Fish and Game budget subcommittee, unless he knows where that \$80 million per year that goes into them with matching funds, he can't make a good decision on where that money goes. That's kind of what this is intended to do. It's around that isn't it, Matt?

**Matt Robus:** It's probably around \$50 million for both divisions.

**Senator Seekins:** Well around \$50 million and he doesn't know where it goes and this is part of the fix to figure out where the money is going. He agrees that the AC system appears to be broken.

**Senator Elton:** A quick question of the Fish & Game folks, it appears, Section 9 beginning on page 6, that the revenues of tagged fish can only be used for the "protection, propagation, investigation and restoration of sport fish and game resources and the expenses of administering the sport fish and wildlife conservation divisions". So it would seem to me that it would preclude use of the existing fees, or added fees if they are raised, for board of fish or board of game support - is that correct?

**Senator Wagoner:** Asked Mr. Hepler to come to the table and noted that he would think the AC's are defined as part of the administrative process.

**Senator Elton:** Noted that's only the administration for the two divisions.

**Kelly Hepler:** Director of Division of Sport Fish. Senator, we actually put \$150,000 a year into the Board support section. The reason we can do that, looking at that statute, is that, if you go back and look at what the board of fisheries does for sports fishing opportunity in the State of Alaska, and the discussion we have in terms of research plans, action plans and management plans, he thinks he can show a federal auditor a direct benefit back to sports fishing opportunity. We kind of balance that, because the bulk of the proposals in from of the board of fish are commercial fisheries oriented typically. So we try to balance it out with what Doug put in when he was Director and what he is putting in. But for years and years, we didn't put any money into it. So it's one of those things that's probably debatable, but in his mind, it's a worthwhile investment and a very good process. So he felt comfortable being able to do that.

**Senator Seekins:** Mr. Chairman, if I could comment on that too. Presently there's a very loose definition of "for the direct benefit of a license holder" in the statute. He hasn't introduced it to you yet, but he has redrafted it to tighten that up a bit. That also is part of the issue brought up earlier by Austin. The reason that we sometime will say we are going to appropriate additional money out of there for specific things that we are talking about, raising the appropriations in the budget process, which is required now for board support, through a line item portion of the budget. He thinks it is our responsibility to take a look at the suggestions that come from the

department which you can either approve or disapprove or cut and add to it as we think would be appropriate to fulfill the function and hopefully when we get done with that, that will be very clear. Right now it's kind of a loose definition – what is “for the direct benefit of the license purchaser”? The commissioner has said, to the Anchorage Board or the AOC, that in his opinion there have been some inappropriate but not illegal funding of things over time that he wants to address. So, no one's going to ever admit that they take anything illegally, but maybe inappropriately is ok. We want to try to find a way to make it more appropriate as well as legal.

Senator Elton: I know that we are running out of time, so maybe the department can respond to him later, they may need to do a little bit of research, but it seems that the way Section 9 is written you are not adding subsistence, board support, commercial fish or AC's. An AC in Dutch Harbor has the same issues with timing and lack of financial resources, but under this language, they may be at a disadvantage because they may be dealing with commercial issues instead of sport hunting, sport fishing, or trapping issues.

Kelly Hepler: He sits on a national committee that is working on a federal aid handbook that details how money can be spent on all these hundreds of millions of dollars between Matt's fund and his fund. What you find is that there is some latitude, as Senator Seekins said, there is not consistency between the states on how that is done so we are trying to clear that up. When you go back to the direct benefit of an angler, the first look at that would be me because I have to be accountable to not only the legislature but also to an auditor.

But we go through those things, he sits down with Doug, we share projects in the southeast, most projects in southeast are coho salmon and king salmon and are done by the division of sport fish, whereas Doug or Denby does work on the other side. We will have the same discussion, we're going to have some with Senator Wagoner, on some work we're going to be doing on sockeye in the Cook Inlet and so there will be some sharing of that. But for the Division of Subsistence, we have been told by the federal people, that there is a hard line for subsistence, that we cannot be giving money directly to the division of subsistence.

We do find ways to help the division of subsistence, either through IT support or through biometric support. It's not like we are ignoring them. So your earlier question, can we give directly to the Division of Subsistence – that would be an interesting discussion. If the senate said this is what you have to do, and you are the appropriators, versus what the federal government is going to say on the other side, that's the type of discussion we just have to work out in committees and see how it would go. To be honest, we just haven't done that in the past.

Senator Elton: But I see the Division of Subsistence being excluded here.

Kelly Hepler: It is right now. I'm just telling you that there is some latitude and different division directors honestly probably deal with it differently. I try to be as wide as possible in that for the benefit of the State of Alaska because we are blessed with a very good budget and an excellent research staff and we can use that as much as we can to help other divisions.

Senator Elton: I apologize to the Chair because we are taking up time.

Senator Wagoner: Yes, we are taking up public testimony time for something that can probably be taken care of later. Go ahead Roy.

Roy Ashenfelter: I'm basically done, I thank you very much and I assume there's going to be opportunity to submit comments later?

Senator Wagoner: Absolutely, in January we will have oral and written testimony.

Senator Seekins: I would like to ask Roy a question - as chairman of local advisory committee do you have a predator problem in this area?

Roy Ashenfelter: Yes - you'll see at our AC minutes - at just about every board of game meeting - we come up with ways for board of game to consider to take more bear. Unfortunately, the way the system is set up, is really kind of backwards. If you want to reduce the bear population, the best way to do it is to shoot the younger ones, the smaller bears, the female bears. But the way the system is setup is to shoot the trophy bear and it takes a while to whittle those down before you get to bears that are the problem bears. So even though there is a one bear a year system here, it's still designed to shoot the biggest bear. The boar bears help to keep the population down by killing the smaller bears. So if you kill the boar bears you increase the population. I think the one bear a year situation has been in place for 3 or 4 years now. It's going to take a little while before the end result of reducing the bear population takes affect. But in the meantime, you really put the balance out of swing when you kill the boar bears until you are finally down to shooting the small bears. More thoughts needs to be given - if you want to change the population - on how to do that in a way that the population maintains a very stable effective way of doing it. So yes, there is a predator problem but is not being dealt with in a way he thinks could be done.

Senator Seekins: He asked Roy to look at the sections of the bill trying to put more hunters into the field and also relaxing some of the statutory and regulatory restrictions on hunting bears, provided that they find that an area deserves intensive management for bear predation. And to provide him with some comments on that as well because he doesn't talk to the people out here that much but he gets a lot of anecdotal information that this area gets as many of the problems with bear predation as other areas of the state do as well.

Roy Ashenfelter: Very quickly - bow hunters are the same as trophy hunters. There's a bow hunter here that's right across the street, and the only bear, only moose, only caribou he'll shoot are the trophy ones. He won't shoot anything else - he'll walk by a moose that most people are happy to get and would provide for any subsistence. But any trophy hunter or professional hunter that comes into our region or who lives here is out for the trophy hunter. Bow hunters are probably the best at that - or at least this guy is, he's very persistent and makes every effort to shoot the biggest animal he's going after.

Senator Wagoner: Thanks for your testimony and by the way, I think that the problem with your subsistence hunter from Teller is that he doesn't like to cook for himself. And I don't blame him, if I was a bachelor, I'd be the same way. Next person to testify is Charles Leen.

Charles Leen: Thank you for having me, I understand you are under a time limit. I am a retired fish and game biologist, I worked for the state for 25 years. Fifteen of those years I was the area

management biologist in Northwest Alaska for fisheries, not just commercial but for sport fish too, I was unique in that position. There was no research biologist then so I was research biologist as well. So I was a one-man band. There's a couple of red flags in here, but first I'd like to say thanks for being responsible and coming out here. I think this is one of the few times I've ever seen a delegation come by and talk to us.

I think that this has some really strong points. I very much like the return of the authority to the board of fish and the board of game. I think that's one of the shining stars of Alaska, that the democratic process and the chance for each of us to get our say in to the board of fish and game. Even though I'm an "ologist" and there seems to be a little less authority for us "ologists", that's exactly right. The boards of fish and game should hear from the people as well as the biologists.

So I like those aspects of this. I also like spending monies intended for fish and game management on fish and game management. I've always been kind of wondering where that has been happening, when it fell into the general fund and seemed to bypass the intended agency.

My concerns are that with some of the subsistence language here, and I point out as a manager, it's doubly difficult for a manager to get reliable harvest information or mortality information from the public. I remember vividly some of my subsistence surveys - I was known as "lean times" with a pun on my last name. I'd walk into a village and try to ask somebody how they did and often got an earful instead of the information I was after. It's really important that the people collecting harvest information don't have the label of being an enforcement officer. If you want real information, you have to have the party collecting it that's perceived as neutral. It just won't work otherwise - and if you're a manager, you need to know all sorts of mortality. So this language to me, maybe I'm reading it otherwise, but it seems like it affects not only subsistence division but only divisions as well on how they collect their information and it's really important that they be able to go in there as a neutral party - it has to be.

And just to keep my green label on, subsistence division has done a good job, in my opinion. Subsistence information it isn't just the harvest number it's an analysis of the trends up and down. It's the analysis that tells you why people do what they do. As a manager, that was useful. I didn't always agree with my counterparts in the subsistence division, but it was always thought provoking and more often than not it was useful.

One last point to raise - I am a manager and I believe in managing fish and game by consumptive use. That's not to say that non-consumptive uses don't have their place occasionally, by and large, that's how you manage fish and game. I'm concerned that this language might affect how habitats are managed or how species are managed. We have a lot of tom cod here in Norton Sound. It's subsistence food, a little bit, but tom cod are a driver of king salmon, king crab, and other species that are highly important - seals too. So when something goes haywire with the tom cod - and in the last 25 years we've had two epidemics and two crashes in the population - it affects everything else. It's nice to be able to know that and the only way I found out was by accident - people need to pay attention to things like that.

And this is more of a question, but I'm sure you all realize that kelp is sold throughout this state and harvested in southeast Alaska. It's even been sold in Norton Sound to be a spawn on kelp substrate so you talk about fish and wildlife but you didn't mention plants and there are a few that are commercial viable and fish and game has managed that.

One more, the Commissioner, by giving authority back to boards of fish and game you rightly place the corporate history and the management of fish and game where it should be. The commissioner is properly placed in his spot. He is the chairman in charge of operations but the recipes for allocation and so forth should be with boards of game and fish. I was particularly dismayed when the habitat division got pulled out of fish and game – I thought that was a mistake. I know everybody has their own view on that, but thought that was decisions made by people who didn't fully understand what that division did and how it worked. Thank you.

Senator Wagoner: Thank you - are there any questions?

Senator Seekins: If I go back to the responsibility of the commissioner – they would still have some responsibility for aquatic plants. I don't think we have affected that, we've just said that the license fees don't go there. I hope we haven't stepped on that responsibility and there is no intent to do that and if we end up that way, we want to change it. A subspecies that was used in making sure there was an abundance of consumptive use fish I think would be very important that it be managed properly. That is part of the process.

Charles Lean: I can think of several examples where I have concerns.

Senator Seekins: It's like where a rancher wouldn't overgraze his pastures because of its effect on his cattle – I think that's important and if there is a threat to that, it is not intended and we'll examine that to make sure that it doesn't happen.

Senator Wagoner: And like I've told the other people, we will be holding additional hearings in January - available for either oral or written testimony. Senator Elton?

Senator Elton: I was just going to say, that I will look at this more closely but I think aquatic plants are mentioned because that was a concern I had especially because of the spawn on kelp issue. My recollection is – and I've been reading through it but haven't found it yet – but I think aquatic plants are mentioned here.

Charles Lean: Here in Norton Sound we had the fucas kelp and we sold that as a herring spawning substrate. We studied that for several years, trying to develop a growth curve on and so forth so we knew that we weren't damaging that – it's really important for the herring, even though the kelp itself isn't typically a food.

Senator Seekins: If you look at page two, section two, you could read it that way, where it says "and aquatic plant resources of the state". I've redrafted that for the next addition to try to make that very clear – it's a little bit vague,

Senator Wagoner: We have one more individual – Mark Kelso.

Mark Kelso: In the interests of time, I will make this brief. I have two comments regarding things in this bill. Number one would be the deferments – the purchase and deferments you referred allowing anti-hunting groups to come up. I was disturbed by that and I think it's setting a bad precedent that would spread like a cancer and would like to see it stricken from the bill.

The second is in regards to this expansion of bear hunting here, and non-residents being able to hunt with a hunter with three years of experience and 19 years of age and older. I'd like to see that expanded beyond just the predator depravation area. My passion is hunting, that's one of the reasons I moved to Alaska, and I have cousins, third degree relationship, and friends that are like brothers, I don't have a brother myself, that like to hunt bear. But have this guide clause or whatever you want to call it – this barrier there – that I find challenging. So many of them come up and hunt moose, which probably doesn't help the moose population on the peninsula, but it's a hunting activity that we enjoy. So if we struck the language there, without making it a predator depravation area, and just putting that in altogether, I'd be strongly in favor of that. I don't know what your position is on that, but that's mine.

Senator Seekins: Mr. Chairman, I could comment on that. There are some areas of the state that are managed as trophy bear areas. We have a suffering big game bag industry because prey populations have gone down so far that we've limited non-resident hunting in many parts of the state. Unit 13 in the central part of the state is one example. The only thing left for guides to go after there is bears and if somebody took too many of them there'd be a kind of revolt. But there's no moose that they could hunt, as a non-resident, no caribou they could hunt as a non-resident.

There's an opinion of the attorney general's office on non-resident hunting and big game accompanying. It's a very thin thread I believe, that says that in general the validity of the big game guide requirements is premised upon the need to protect the public resources and the hunting public. (Reading from the opinion) "As rugged terrain, dangerous animals and inclement weather have also been raised as justification for requiring hunters to be accompanied by guides. Similarly, the need to protect public resources from hunters unfamiliar with the state conservation laws has also been cited as the basis for requiring a guide". However, if you live here 12 months, suddenly by osmosis you've assumed all those categories to safely hunt those animals.

If it ever got challenged in court, I think it would be struck down quickly. It's an attempt here to widen the opportunity, especially in those areas of intensive management, to reduce those populations - but not to threaten where we manage for trophy animals. And still help by somewhat emulating the requirements for an assistant guide - in your ability to be able to safely guide someone out there. You probably can - I know I could. I can't take my daughter's father-in-law, and I'd love to. So it's not only, call it a compromise, but it's an attempt to try to address the area by getting more hunters in the field for bears, but at the same time, not unduly compromise the big game guide industry in areas where they're managed for trophies.

Mark Kelso: Well, here it's one bear a year - as long as you change the language to areas of the state where one bear can be taken each year, versus the bear deprivation clause.

Senate Seekins: Mr. Chairman, I think you would find out that this unit could be – is this unit out here under intensive management determination? Matt –

Matt Robus: It's not under (unintelligible) and the moose herd here is I believe designated as an intensive management herd.

Senator Seekins: So, more than likely, the findings could take place right now by the board of game to put that in place. What I'm trying to do is say, once we get there and if bear has been identified as a cause of that predation, under intensive management, that this is automatic in statute. So you don't have a menu of things that can be done, these things now can be done and they try to attempt to address what Roy brought up to. We change the methods and means to make it possible for someone to take younger bears and sows a little earlier, use more successful means to be able to help reduce those populations. I understand exactly where you're coming from and I feel the same way. But I have this responsibility kind of in those trophy areas to help the guide industry. It's gone down so terribly that it's drastic. Texas brings in \$9 billion a year in non-resident hunting revenue - that's in Texas, and we are less than a half a billion, aren't we Matt? (unintelligible) But I agree with you but I don't know how to address it but I can try.

Mark Kelso: But these new fees at \$900 a pop for a non-resident bear ...

Senator Seekins: ... Won't be there in intensive management area - that's \$250.00 - after you get the bear.

Mark Kelso: I thought a non-resident is a proposed \$750 plus \$150 ...

Senator Seekins: If it fits into this category it would be after you get the bear.

Senator Wagoner: So you go hunting, and then after you're successful, if you are, you

Senator Seekins: We're trying to put more hunters in the field. I want your college roommate your friends, your third cousins and my daughter's father-in-law to be able to go after a bear to help reduce that population and have a great hunting experience at the same time.

Mark Kelso: That's what I want as well, but if you loosened it a little more it would happen today, versus waiting for that deprivation ruling.

Senator Seekins: I like what you're saying, I don't know if I can do it, but I'll give it a shot.

Senator Wagoner: The last thing I want to see, because I'm on the commercial side of fisheries, the last thing I want to see is the legislature to start making decisions in place of the board of fish and the board of game. That's a system that's always worked and should continue to work. In the long run, I think we can make it work, but I'm not in favor of legislating anything without the board of fish and the board of game having the final say.

Senator Elton: A question of the department - I tried to do a little bit of my home work before I got here and I couldn't find a definition of consumptive use. So maybe at the next meeting, if you could let us know how consumptive use applies. I think it's easy for me to understand in the taking of a moose, but what about the taking of a king salmon in a commercial troll fishery, when that salmon is being sold, at a Carr's in Juneau for example? And also, what consumptive use can mean, for example, the taking of a bird for use and cultural artifacts. Just let me know what consumptive use means and how it's applied to the different situations other than going out and taking a game animal.

Senator Wagoner: I'm going to conclude the meeting because the plane for once is on time. I want to thank every body for coming – it was a pleasure to be here. And if we can do this again, I hope you all can attend another hearing.

Ended at 8:30pm.



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# Of pages, including this page 2

**ADDITIONAL INFORMATION:**

Please find Rose Fosdick's comments presented at Senators Wagoner, Seeks,

Elton and Olson on October 10, in Nome. Additional comments later.

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☺ *Have a nice day* ☺

Rose Fosdick  
P.O. Box 1485  
Nome, Alaska 99762

October 10, 2005

In regards to Senate Bill No. 170, I have several points for you to consider. Thanks for taking the following into consideration as you deliberate.

- The draft bill was lengthy and complicated. It didn't make it any easier when, in several places there was new text added, such as in places that read "is amended by adding a new section to read:..." the document didn't follow the legend in which new text was supposed to be underlined. Therefore I marked my version up to show new sections. Also at the end two statutes were suggested for repeal and they were not printed and bracketed.
- In regards to the Subsistence division, this bill reduces the effectiveness and validity of an important part of ADFG. This bill reduces the department's ability to recommend action to ADFG, BOG, BOF. Instead it creates a special unit to report on consumption of resources by people who are subsistence users. I object to that intent.
- The legislature is given the final authority to approve appropriations of the fish and game fund which just places the decision in a political forum, where factions will lobby for funds.
- We want to benefit from the Pittman-Robertson funds also, so if you are changing the distribution streams for this revenue, please distribute equitably throughout the state.
- I object to the fact that residents' licenses and fees for hunting, trapping, and sport fishing are proposed for increases and especially for those, according to this bill would be required to show proof of eligibility. The only proof available would create another layer of tracking and proving because IRS tax reports would have to be provided as well as Division of Human and Family Services' proofs of eligibility.
- There is a new section called "permit deferral fee" and I don't understand it and object to it's being suggested.
- Finally, it's frustrating to see the word "wildlife" included as a replacement for "game" throughout the document and I'm not sure what purpose that serves unless the State is trying to get away from the use of the word "game."

Thank you.