

SB

101

<TARGET><BILL>SB 101</BILL><SUBJECT>SB
101</SUBJECT><COMM>SRES29</COMM></TARGET>

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 4/8/15

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/14/15

Resources Committee considered SENATE BILL NO. 101

SB 101-STATE PARKS FEES & SALES OF MERCHANDISE

"An Act relating to fees for use of state park system facilities; and relating to the sale of merchandise by the Department of Natural Resources."

and recommends:

- be replaced with CS SB101 (RES) [] Same Title New Title
- [] adopt previous CS _____ (_____) [] Same Title [] New Title
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
<u>DNR</u>			<input checked="" type="checkbox"/>	<u>2</u>

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Costello	<input checked="" type="checkbox"/>			
	Wielechowski	<input checked="" type="checkbox"/>			
	Coghill	<input checked="" type="checkbox"/>			
	Micciche				<input checked="" type="checkbox"/>
	Stedman			<input checked="" type="checkbox"/>	
	Stoltz	<input checked="" type="checkbox"/>			
CHAIR:	Giesel	<input checked="" type="checkbox"/>			

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Juneau, AK 99811-0001
907-465-3500
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Governor Bill Walker
STATE OF ALASKA

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April 7, 2015

The Honorable Kevin Meyer
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Meyer:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the collection of State park fees and to the authority of the Department of Natural Resources to sell merchandise to retailers for profit in support of ongoing park operations.

The bill would amend AS 41.21.026 to grant the Alaska Department of Natural Resources (Department) the authority to sell merchandise for informational, educational, or promotional purposes to support ongoing park operations. The Department would make sales to retailers for resale at a price to ensure a fair and reasonable return to the Department. The bill also would remove language requiring all authorized fees to be collected in a park unit, making clear that the Department has the authority to collect fees online or in locations outside of a park unit.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Bill Walker".

Bill Walker
Governor

Enclosure

SB 101: STATE PARK FEES AND SALE OF MERCHANDISE

BRIEFING PAPER

FOR THE SENATE RESOURCES COMMITTEE • APRIL 8, 2015

SB 101 is necessary to allow the Department of Natural Resources' Division of Parks and Outdoor Recreation to sell state park-themed merchandise to retailers, ensuring a fair and reasonable return to help support state park operations, and thereby reducing our reliance on general funds

The bill would accomplish the following primary objectives:

- 1) The bill would add a new subsection to AS 41.21.026 to grant the Department of Natural Resources the authority to sell to retailers state park-themed merchandise for informational, educational or promotional purposes to support park operations.
- 2) The new subsection would allow the department to establish prices for park themed merchandise so as to ensure a fair and reasonable return.
- 3) The bill would remove language in AS 41.21.026(a) requiring all fees to be collected in a park unit, making clear that the department has the authority to collect fees at locations outside of a park unit.

Why the bill is needed:

The Division of Parks & Outdoor Recreation generates about \$3 million annually in revenue from park fees. A wholesale merchandise sales program will increase and diversify revenue opportunities potentially reducing the amount of unrestricted general funds necessary to support park operations.

The bill will allow the state to create, purchase and sell authentic Alaska State Park merchandise to retailers, thus providing opportunities for private businesses while generating revenue. Currently the only source for Alaska State Park merchandise is on-line retailers operating outside the state. The state receives no revenue from these sales.

Alaskans who buy authentic Alaska State Parks merchandise would be confident that their purchase benefits the state parks they care about.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	CSSB 101(FIN)
Fiscal Note Number:	3
(S) Publish Date:	4/11/2016

Identifier: SB101CS(FIN)-DNR-PKS-4-11-16
 Title: STATE PARKS FEES & SALES OF
 MERCHANDISE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Senate Resources

Department: Department of Natural Resources
 Appropriation: Parks & Outdoor Recreation
 Allocation: Parks Management & Access
 OMB Component Number: 3001

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated to CS Senate Finance version.

Prepared By: Ben Ellis, Director
 Division: Parks and Outdoor Recreation
 Approved By: Marty Rutherford, Acting Commissioner
 Agency: Department of Natural Resources

Phone: (907)269-8701
 Date: 04/11/2016 12:00 AM
 Date: 04/11/16

REPORTED OUT OF
SFC 04/11/2016

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Analysis

Department of Natural Resources anticipates there will not be a fiscal impact on the department with this legislation.

The bill would remove language in AS 41.21.026(a) requiring all fees to be collected in a park unit, making clear that the department has the authority to collect fees at locations outside of a park unit. The bill would add a new section to AS 41.21.026 allowing the department to sell merchandise priced to provide a reasonable return to the state and to set those prices outside of the regulatory process. Finally, the bill amends portions of AS 37.05 to include funds from the sale of merchandise in the definition of program receipts and to allow a profit to be made on the sale of merchandise.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	CSSB 101(RES)
Fiscal Note Number:	2
(S) Publish Date:	4/14/2015

Identifier: SB101CS(RES)-DNR-PKS-04-13-15
 Title: STATE PARKS FEES & SALES OF
 MERCHANDISE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Senate Resources

Department: Department of Natural Resources
 Appropriation: Parks & Outdoor Recreation
 Allocation: Parks Management & Access
 OMB Component Number: 3001

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2016 Request	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Sections 1 and 2 are removed from previous bill version.
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Prepared By:	Ben Ellis, Director	Phone:	(907)269-8701
Division:	Parks and Outdoor Recreation	Date:	04/13/2015 12:00 PM
Approved By:	Mark Myers, Commissioner	Date:	04/13/15
Agency:	Department of Natural Resources		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

The bill would remove language in AS 41.21.026(a) requiring all fees to be collected in a park unit, making clear that the department has the authority to collect fees at locations outside of a part unit.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	SB 101
Fiscal Note Number:	1
(S) Publish Date:	4/8/2015

Identifier: LL0040-3-DNR-PKS-03-28-15
 Title: STATE PARKS FEES & SALES OF
 MERCHANDISE
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Natural Resources
 Appropriation: Parks & Outdoor Recreation
 Allocation: Parks Management & Access
 OMB Component Number: 3001

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services			***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	0.0	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 400.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Initial version. Not applicable.

Prepared By:	Ben Ellis, Director	Phone:	(907)269-8701
Division:	Parks and Outdoor Recreation	Date:	03/28/2015 12:00 PM
Approved By:	Mark Myers, Commissioner	Date:	03/28/15
Agency:	Department of Natural Resources		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

Analysis

Like other state park systems throughout the country, Alaska State Parks is pursuing ways to become more financially self-sustaining through development of new revenue sources. Many state park agencies have merchandise sales programs which generate significant revenue to support park operations. With changes made to AS 41.21.026, to authorize the department to sell park themed merchandise to retailers for profit, the revenue could then be allocated to support state park operations. General funds and program receipts via a capital request, will be used to develop a pilot program.

While it is difficult to project how much revenue the program could generate in the long-term, there is data from other states that indicates merchandise sales can provide significant revenue. For instance, in FY2014, South Carolina State Parks had \$4 million in total sales with a net profit of \$1.7 million.

This is appropriate for a capital project because it is a pilot program that will require multiple years to establish. This project will be funded by \$50.0 GF and \$350.0 GF/PRGM.

The assumptions for this program are as follows:

1. The \$50.0 (UGF) portion of the capital appropriation will provide the start-up funds to purchase the initial merchandise to sell to retailers.
2. With a 20% mark-up on merchandise, the initial \$50.0 would result in \$60.0 in GF/PR coming from retailers, which would be reinvested in new merchandise to then be sold to retailers.
3. Depending on market demand, this process would continue to determine an annual expenditure/revenue stream and eventually look to offset some general funds costs in the operating budget with the profits. Until that consistent stream is established, the amount is indeterminate at this time.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION
P.O. Box 110300
Juneau, Alaska 99811
Main: 907-465-3600
Fax: 907-465-2520

April 12, 2015

The Honorable Cathy Giessel, Chair
Alaska State Capitol, Room 427
Senate Resources Committee
Juneau, Alaska 99801

Re: *SB101- State Parks Fees & Sales of Merchandise*

Dear Senator Giessel:

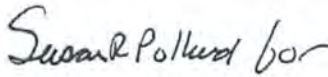
On April 10, 2015, the Senate Resources Committee heard testimony on SB101, a bill related to the collection of state park fees and the authority of the Department of Natural Resources (“DNR”) to sell merchandise in support of ongoing park operations. During the hearing, Senator Wielechowski asked whether DNR’s current practice of charging or collecting a fee online for certain activities listed under AS 41.21.026(a)—i.e. the rental of public use cabins and selling special park permits—violates the statute which provides that the “department may charge or collect a fee *in a park unit*.” This letter addresses that question.

The purpose of SB101 was to amend AS 41.21.026 to grant DNR the authority to sell merchandise for informational, educational, or promotional purposes to support ongoing park operations. In the course of reviewing the statute, we recognized that the language “may charge or collect a fee in a park unit” is ambiguous and could be read to limit the agency’s ability to charge or collect a fee outside of a park unit. Given the advancements in technology, such a result would severely limit the agency and lead to an absurd result. We therefore recommend amending AS 41.21.026(a) to delete the language “in a park unit” and remove any ambiguity over how or where the agency may charge or collect a fee.

Although we suggested this amendment to remove any ambiguity, we do not believe that DNR's current practice of charging and collecting fees online violates the statute. Courts generally do not apply the literal interpretation of a statute when it leads to an absurd result. *McLeod v. Parnell*, 286 P.3d 509, 514 (Alaska 2012). Instead, courts will interpret the words of the statute to agree with the intent of the legislature. *Id.* In enacting AS 41.21.026(a), we would contend that the legislature intended to grant DNR the authority to charge or collect a fee for the activities or items listed in subsection (a)—all related to different types of uses of park units—and that the legislature did not intend to require the agency to collect the fee within the actual physical location of the park unit. As recognized during the hearing, many of the state's park units do not have employees regularly stationed within the park. Such a reading of the statute is unreasonable and would lead to a result not envisioned by the legislature.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

By: 
Jessica M. Alloway
Assistant Attorney General

cc: Akis Gialopsos, Legislative Assistant to Senator Giessel
Darwin Peterson, Legislative Director, Office of the Governor
Ben Ellis, Director, Division of Parks and Outdoor Recreation, Department of Natural Resources
Courtney Sanborn, Legislative Liaison, Department of Natural Resources
Cori Mills, Assistant Attorney General and Legislative Liaison, Department of Law

JMA/jma