

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 51-H thru SB 55

19

SB

51-4

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/17/88

FURTHER REFERRALS:

DATE: 3-28-88

The Finance Committee has considered CSSB 51(R1s)

"An Act increasing the penalty for certain unlicensed manufacture, sale, possession, or barter of alcoholic beverages."

RECOMMENDS:

- replace with H CS CS SB 51 (JUD) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/88
- zero with analysis

SIGNING DO PASS:

Adams *Al Adams*

Purchot *Pat Purchot*

Larson *Ronald J. Larson*

Goll *Peter Goll*

SWACK *Charles Swack*

Boyer *Mark Boyer*

Rieger *Alvin Rieger*

Frank *Frank*

Wallis *Kay Wallis*

Brown *Fay Brown*

Davis *Mike Davis*

SIGNING OTHER RECOMMENDATIONS:

Al Adams

Chairman's signature

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSGSSB 51 (JUD)

PUBLISH DATE: House: 2-3-88

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88 Agency Affected: ABC Board
 Title: Increasing the penalty for certain unlic.'d manuf., sale, possession... alcoholic bev. BRU: _____
 Sponsor: Sen. Binkley Components: operating
 Requestor: Senate Rules

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Royce Weller *RW* Phone: 465-2300
 Division: Commissioner's Office Date: 1/25/88
 Approved by Commissioner: Hugh Malone *HWM* Date: 1/25/88
 Agency: Revenue

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: January 22, 1988.
Title: "An Act increasing the penalty...
unlicensed...alcoholic beverages."
Sponsor: Sen. Binkley
Requestor: Senate Rules

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach 2 separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: January 22, 1988
Approved by Commissioner: Richard I. Pegues / FOR /
Grace Berg Schaible, Atty. Gen. Date: January 22, 1988
Agency: Department of Law

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

J)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 51

This bill amends AS 04.16.200(b) by reclassifying the illegal sale of alcoholic beverages from a class A misdemeanor to a class C felony.

A total of 45 such violations were referred to the department last year for prosecution. About one-half of those reported violations occurred in the Bethel service area.

Although this change will require some additional work on our part, preparing these cases for grand jury, this addition does not warrant fiscal note costs because of the small number of cases involved. Our estimate assumes that the same enforcement pattern will continue. However, if police agencies substantially increase their enforcement activities, because of the increased penalties available for felons, it may be necessary to request increased appropriation at a later time. In any event, the department will not be able to respond to a marked increase in this area at this time due to the serious budget shortfalls it now faces.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Corrections
 Title: "An Act increasing the penalty for BRU: _____
barter of alcoholic beverages, manufacture, sale, possession or
 Sponsor: Sen. Binkley Components: _____
 Requestor: Sen. Binkley

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-2-88
 Approved by Commissioner: Susan Humphrey-Barnett Date: 2-2-88
 Agency: Department of Corrections

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST

Revision Date: _____
Title: "An Act increasing the penalty for certain unlicensed manufacture..."
Sponsor: Senator Binkley
Requestor: Senate Rules

Agency Affected: Public Safety
BRU: Alaska State Troopers

Components: Detachments & CIB
Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JKP
1/25/88 Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691

Date: _____

Approved by Commissioner: *Arthur Engstrom*
Agency: Public Safety

Date: 1-25-88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Original sponsor: Binkley

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 51 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.16.200(a) is amended to read:
11 (a) Except as provided under (b) of this section, a [A] person
12 who violates AS 04.11.010 is, upon conviction, guilty of a class A
13 misdemeanor.
14 * Sec. 2. AS 04.16.200(b) is repealed and reenacted to read:
15 (b) A person who violates AS 04.11.010 in an area where the
16 results of a local option election have, under AS 04.11.490 - 04.11.-
17 500, prohibited the board from issuing, renewing, or transferring one
18 or more types of licenses or permits under this title in the area is,
19 upon conviction, guilty of a class C felony.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSCSSB 51 (JUD)

PUBLISH DATE: House: 2-3-88

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88 Agency Affected: ABC Board
 Title: Increasing the penalty for certain unlic. 'd manif., sale, possession...alcoholic bev. BRU: _____
 Sponsor: Sen. Binkley Components: operating
 Requestor: Senate Rules

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Royce Weller *RW* Phone: 465-2300
 Division: Commissioner's Office Date: 1/25/88
 Approved by Commissioner: Hugh Malone *RW for* Date: 1/25/88
 Agency: Revenue

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

3/16/88
14 (500)
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FISCAL NOTE

REQUEST:

Revision Date: 03/15/88
Title: "An Act increasing the penalty
for certain unlicensed manufacture, sale
possession, or barter of alcoholic
beverages."
Sponsor: Senator Binkley
Requestor: Rules Committee

Agency Affected: Revenue
BRU: ABC Board

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Division Date: 03/15/88
Approved by Commissioner: Hugh Malone Date: 03/15/88
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Hugh Malone
RECEIVED
MAR 16 1988

LEGISLATIVE FINANCE

1988

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Corrections
 Title: An Act increasing the penalty for BRU: _____
 certain unlicensed manufacture, sale, possession or barter of alcoholic beverages
 Sponsor: Sen. Binkley
 Requestor: Sen. Binkley Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 2-2-88
 Approved by Commissioner: Susan Humphrey-Barnett Date: 2-2-88
 Agency: Department of Corrections

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST

Revision Date: _____ Agency Affected: Public Safety
 Title: "An Act increasing the penalty for certain unlicensed manufacture..." BRU: Alaska State Troopers
 Sponsor: Senator Binkley Components: Detachments & CIB
 Requestor: Senate Rules Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: _____

Approved by Commissioner: Arthur Engler Date: 1-25-88
 Agency: Public Safety

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Senator Johne Binkley

Alaska State Senate

P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

MEMORANDUM

March 16, 1988

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Senator Johne Binkley

RE: Senate Bill 51 - "An Act relating to alcohol."

Bootlegging in communities where there is a restriction on alcohol is a serious crime. Communities that have adopted a local option law recognize how serious alcohol problems are and how devastating these problems are to their community. Community police and public safety officers work very hard and at great expense to apprehend and convict bootleggers. Under current law, most offenders are charged with a Class A Misdemeanor. The District Attorney in Bethel estimates that two dozen misdemeanor cases are referred to his department each year and two or three felony cases. This bill would raise the penalty for bootlegging in a local option area to a Class C Felony.

Current Law

Under current law the person would be charged with the misdemeanor offense unless the following circumstances were present:

- *the person had been previously convicted of bootlegging
- *the sale was made to a minor
- *the quantity of the sale was of a specified amount
 - 12 liters or more of distilled spirits
(a little more than 17 quarts)
 - 24 liters or more of wine
(about 6½ gallons)
 - 45 liters or more of malt beverages
(approximately six cases)

If any of the above circumstances have occurred the person is charged with the felony offense.

Penalties

A Class A Misdemeanor carries a maximum jail term of one year and a fine of up to \$1,000. Typical sentences in the Bethel courts are 30-90 days with a fine double the value of the alcohol involved.

A Class C Felony carries a maximum jail term of five years and a fine of up to \$5,000 (for the first conviction). A second "Class C Felony" charge also carries a two year presumptive term.

Communities in my district feel strongly that the stiffer penalty will be a greater deterrent to the bootlegger. Under present law when the bootlegger is caught and charged with the Class A Misdemeanor, he is educated in how the legal system works; he learns to improve his system, and how not to get caught. Bootlegging in a local option community is a serious crime. By increasing the penalties to the more serious Class C Felony charge we will send a clear message to those who would break the law that lawbreaking will not be tolerated.

BILL NO: SB 51

DATE: 1/26/87

TITLE: "An Act relating to alcohol."

CONTACT: Maj. Walter J. Gilmour
Acting Director



POSITION PAPER / DEPARTMENT OF PUBLIC SAFETY

The Division of Alaska State Troopers supports passage of this legislation.

This legislation changes the current statute to reflect a concern over continuing violations over local option laws by making violators subject to a class C felony, regardless of previous convictions or age of the perpetrator.

Although no additional enforcement effort is anticipated as a result of the passage of this legislation, it will provide a stronger disincentive to violate the local option elections.


WILLIAM R. NIX
Acting Commissioner

Northwest Arctic Borough School District
BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472

NOATAK
KIVALINA
KOTZEBUE
DEERING
BUCKLAND

MANA
AASLER
KOBUK
SI-LINGNAK
SELAWIK
NOORVAK

Matthew
F-11
A

February 10, 1988

Representative Johnny Ellis, Co-Chairman
House Health, Education and Social Services Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Ellis:

The Northwest Arctic Borough School District would like to go on record in support of CS for Senate Bill 51 which was introduced by Senator Binkley and has just recently passed the Senate.

As you are aware alcohol abuse is one of the major problems facing the citizens of rural Alaska. Leaders in rural Alaska have been combating this problem for many years. This is evident by the number of villages and towns that have implemented the local option laws outlawing the sale, importation and/or possession of alcoholic beverages. This effort of outlawing the sale of alcoholic beverages has only been marginally successful due to the readily available source of alcohol from the local bootleggers. The recent crackdown on bootleggers in Bethel indicates the extent of the problem.

Abuse of alcohol not only affects the individuals in the villages but the schools as well. Children who come from families where alcohol abuse is present do not succeed as well in school as children who come from families where alcohol abuse is not present. This is due in part to lack of sleep, concern about their families, lack of self esteem, and a general disinterest in school.

By having the first offense of illegal sale of alcohol a misdemeanor there is no deterrent to keep individuals from becoming bootleggers. Upon a conviction for a first offense the guilty individuals are released and put back on the street to continue their operation. We feel that changing the law to increase the penalty for the first offense to a felony will greatly assist in stopping the supply of alcohol into villages and towns that have banned the sale, importation, and/or possession.

As your committee address' this bill I hope they will keep in mind the devastating effects that alcohol abuse has on the quality of life in rural Alaska.

If you would like to discuss the school district's position on this bill please feel free to contact me at your convenience.

Sincerely yours,

Gerald B. Covey
Gerald B. Covey
Superintendent

cc: Representative Al Adams, Chairman
House Finance Committee



Bethel Police Department

P. O. BOX 388 : BETHEL, ALASKA 99559

April 1, 1987

Senator John Binkley
P.O. Box V
Juneau, Alaska 99811

REF: Senate Bill 51

Dear Senator Binkley:

Sale of Liquor Without a License, commonly called "bootlegging", is a very serious problem for the Yukon-Kuskokwim region. Bootlegging certainly plays a major role in criminal activity and life-threatening situations in this area.

In 1985, Bethel police officers responded to approximately 11,000 calls for assistance. These calls ranged from curfew violations to homicides. I can safely say that approximately 95% of the crime-related calls and investigations were alcohol-related. Approximately 1,100 people were incarcerated at the state jail in Bethel for "protective custody" during this same period, simply for being incapacitated by alcohol in a public place.

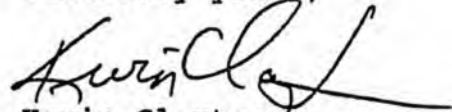
The question is always asked, "where does all the alcohol come from-Bethel's supposed to be a dry town"? Well, the answer to that question is simple, the majority of alcohol involved in criminal activity as well as care for protective custodies is bootleg liquor. Unfortunately, the penalty for selling liquor without a license is certainly no deterrent. The money made (and to be made) bootlegging far outweighs the cost to the bootlegger of a misdemeanor conviction. In studying the sentencing for bootleggers, one learns quickly that a misdemeanor is more of an inconvenience than punishment. Bootlegging is a "business" for many people in this small town, and a lucrative one, at that. The misdemeanor penalty for bootlegging makes it extremely frustrating for the police officers who are required to spend many man-hours and considerable funds developing and producing strong, prosecutable S.O.L.W.O.L. cases, and for the District Attorney who must also spend considerable time and money taking the case to court, the end result usually being a minor fine and a possible day or two in jail, or in some cases, an "SIS" (Suspended Imposition of Sentence). An SIS means that the second time around, when the conviction should result in a felony, the defendant is again only facing a misdemeanor because the first offense has been forgiven.

PAGE 2

I feel that a misdemeanor conviction for a first time bootlegger is not at all a sufficient deterrent. I strongly support Senate Bill 51, and Senator Binkley's efforts to help reduce this criminal activity.

If there are any further questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Kevin Clayton".

Kevin Clayton
Chief of Police



Native elders 'declare war' on alcohol and drug use

By KATHI BERRY
Staff Writer

The elders of the Athabascan Nation have "declared war" on all those who are associated with alcohol and drug abuse, according to a resolution passed after the Tanana Chiefs Conference last week.

"The use of alcohol and drugs offers nothing to our Native villages but broken spirits, broken families, pain, grief, suffering and death," the resolution says.

The two-page document was passed unanimously by the delegates representing 43 villages on the TCC board, according to Will Mayo, TCC program director.

A similar resolution to ban alcohol and drugs from the villages was passed by board members of Doyon, Ltd., but taken back later for reconsideration.

"Philosophically, we are in agreement with the resolution, but at least one board member wants to make some changes," said Morris Thompson, president. "We can only speculate that he wants to make the wording stronger in some areas."

The resolution adopted by TCC

was drawn up by Denakkanaage, an advocacy group for Native elders. In the document, the elders ask village councils and village courts within TCC to "strongly consider the use of traditional Native justice mechanisms and banish bootleggers and drug pushers from the villages."

Banishment of bootleggers is the next step after villages adopt the state's local option law to make alcohol consumption illegal, Mayo said.

"As it is, the state law lacks teeth," he said. "People are beginning to despair that they will never be able to do anything through the state law. At times, it seems non-enforceable."

Villagers have to stage a "sting" operation before they can get enough proof to get a bootlegger arrested, Mayo said.

"Then, very often, the bootlegger gets a light penalty in court and comes right back to the village again," he said. "It's not a very strong deterrent to him or others who who want to set up illegal sales."

Villages would all have different



WILL MAYO
"Law lacks teeth"

ways of enforcing traditional banishment, Mayo said.

"This could work if everyone in the village got behind it and decided to oust the guy," he said. "Bootleggers are not people who fly around with a plane load of booze. These are people who live in the community. They are everyone's cousin."

Through the resolution, the elders also ask that a comprehensive (See ALCOHOL, Back Page)

ALCOHOL

(Continued from page 1)

sive alcohol and drug prevention program be set up in each village and that each school incorporate a comprehensive drug prevention course in their curriculum.

They further resolved that no alcohol will be served at any TCC function "as an example to our children and to each other," and that any TCC employee with a drug or alcohol problem will be given the option to receive treatment or be immediately terminated from employment.

Some of the impetus for the resolution came from the movie, "The Honor of All," shown during the convention. The movie tells the story of one couple who worked against threats, hatred and violence to turn a Canadian village with a near 100 percent alcoholism rate into a town that is now 95 percent sober.

"The movie helped, but to attribute the resolution to it is an oversimplification," Mayo said. "Native elders have been fighting this all along. They are sick of seeing their grandchildren die and the neglect, domestic violence and the sorrow that alcoholism brings."

APR 03 05 10:53 LUU - FAIRBANKS

John

2-29-88

Dear Sir,

wed appreciate your support of the
felony bootleg bill. Our local bootlegger says
he will cease business if the bill passes. Since
we've been unable to interest troopers in our
situation, this just might be the break our
town needs.

thank you.

Gracie Young

Paul Young

port alexander 19836

How ABOUT
THIS CLASSIE !!
Dick E

alty had not been before the court. *Frontier Saloon, Inc. v. ABC Bd.*, Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

The outcome in one proceeding could not result in the subsequent deprivation of rights that had not been litigated or subject to deprivation in the prior proceeding. *Frontier Saloon, Inc. v. ABC Bd.*, Sup. Ct. Op. No. 1062 (File No. 1984), 524 P.2d 657 (1974).

Sentence under former law affirmed. — See *Williams v. State*, Sup. Ct. Op. No. 1939 (File No. 4263), 600 P.2d 741 (1979); *Hampton v. State*, Sup. Ct. Op. No. 2283 (File No. 4711), 623 P.2d 318 (1981).

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Collateral references. — 45 Am. Jur. 2d, *Intoxicating Liquors*, §§ 416-426.

48 C.J.S., *Intoxicating Liquors*, §§ 289-296.

Right of one charged with unlawful sale of intoxicating liquor to be informed of name or identity of purchaser before trial. 5 ALR 409.

Criminal responsibility of purchaser of liquor sold in violation of law. 5 ALR 786; 74 ALR 1110; 131 ALR 1322.

Revocation of license in exercise of police power. 124 ALR 541.

Revocation of liquor license of one person as ground for refusal of license to another. 153 ALR 836.

Sec. 04.16.200. Unlicensed persons. (a) A person who violates AS 04.11.010 is, upon conviction, guilty of a class A misdemeanor.

(b) A person who violates AS 04.11.010 in an area where the results of a local option election have, under AS 04.11.490 — 04.11.500, prohibited the board from issuing, renewing, or transferring one or more types of licenses or permits under this title in the area is, upon conviction, guilty of a class C felony, if

(1) the person has previously been convicted of a violation of AS 04.11.010;

(2) the sale or offer for sale was made to a person under 21 years of age; or

(3) the quantity of alcoholic beverages sold or offered for sale is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages.

(c) It is an affirmative defense to a prosecution under (a) of this section that no profit was involved in the solicitation or receipt of an order for the delivery of an alcoholic beverage. However, the affirmative defense created under this subsection is not available in a prosecution of a person charged with selling or offering for sale alcoholic beverages to a person under 21 years of age.

(d) Upon conviction of a person of a violation under (a) of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 consecutive days. The execution of the sentence may not be suspended and probation or parole may not be granted until the minimum imprisonment provided in this subsection has been served. Imposition of sentence may not be suspended except upon the condition that the defendant be imprisoned for no less than the minimum period provided in this subsection.

(e) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.496 is, upon conviction,

(1) guilty of a class A misdemeanor if the quantity imported is less than 12 liters of distilled spirits, 24 liters of wine, or 45 liters of malt beverages; or

(2) guilty of a class C felony if the quantity imported is 12 liters or more of distilled spirits, 24 liters or more of wine, or 45 liters or more of malt beverages. (§ 3 ch 131 SLA 1980; am §§ 12, 13 ch 109 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "21 years of age" for "19 years of age" in paragraph (2) of subsection (b) and in subsection (c).

NOTES TO DECISIONS

This section does not violate equal protection. — Penalties based upon quantity and type of alcoholic beverage do not violate equal protection. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

Or due process. — Restriction of the defense of lack of profit to misdemeanor prosecutions under subsection (a) of this section does not constitute a violation of due process; the section treats all persons charged with felonies alike and, therefore, fairly. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

Statutory distinction between a misdemeanor and a felon based solely on the type and quantity of alcoholic beverages imported does not violate due process; the greater the volume of alcoholic beverages imported, the greater the potential for abuse, whether importation is for sale or personal use. *Harrison v. State*, Ct. App. Op. No. 400 (File No. 7407), 687 P.2d 332 (1984).

This section is substantive offense, and an essential element of a conviction under paragraph (b)(1) of this section is a defendant's prior conviction under AS 04.11.010. *Morgan v. State*, Ct. App. Op. No. 244 (File No. 6805), 661 P.2d 1102 (1983).

Were courts to construe subsection (b) of this section as merely a sentence enhancement provision, the state would be able to convict a defendant of a felony while completely circumventing both the grand jury and the trial jury on the issues of whether the alleged offense occurred in a local option area, whether it involved a sale or an offer to sell to a minor, whether it in-

involved a sale or an offer to sell a substantial quantity of specific beverages, and/or whether the accused had a prior AS 04.11.010 conviction. *Morgan v. State*, Ct. App. Op. No. 244 (File No. 6805), 661 P.2d 1102 (1983).

Conviction and sentence affirmed. — See *Azzarella v. State*, Ct. App. Op. No. 490 (File No. 7050), P.2d (1985).

Sentence modification. — A trial judge who sentenced a worst offender to two maximum consecutive terms of one year for conviction of one count of selling alcoholic beverages without a license and one count of possession of alcoholic beverages for sale in a local option area, with 275 days of the first sentence suspended, was clearly mistaken in imposing consecutively the unsuspended portion of the offender's jail term for selling alcoholic beverages without a license, where the judge specifically commented at sentencing that the chances for the offender's rehabilitation seemed good and that there was no reason to believe the offender would be inclined to resume a criminal lifestyle. In order to impose consecutive sentences that exceed the maximum sentence for the single most serious count, the sentencing court must expressly find that the full term of imprisonment is necessary for the protection of the public. *Peruaki v. State*, Ct. App. Op. No. 568 (File No. A-956), 711 P.2d 573 (1985).

Jail sentence inappropriate. — Where an air taxi operator flew passengers who had alcoholic beverages into a village where importation of alcoholic beverages is unlawful, a jail sentence was not appropriate where the misdemeanor

Original sponsor: Binkley

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 51 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act increasing the penalty for certain unlicensed
7 manufacture, sale, possession, or barter of alcoholic
8 beverages."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.16.200(a) is amended to read:
11 (a) Except as provided under (b) of this section, a [A] person
12 who violates AS 04.11.010 is, upon conviction, guilty of a class A
13 misdemeanor.
14 * Sec. 2. AS 04.16.200(b) is repealed and reenacted to read:
15 (b) A person who violates AS 04.11.010 in an area where the
16 results of a local option election have, under AS 04.11.490 - 04.11.-
17 500, prohibited the board from issuing, renewing, or transferring one
18 or more types of licenses or permits under this title in the area is,
19 upon conviction, guilty of a class C felony.

Original sponsor: Binkley

1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 51 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act increasing the penalty for certain unlicensed

7

manufacture, sale, possession, or barter of alcoholic

8

beverages."

9

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

10

* Section 1. AS 04.16.200(b) is repealed and reenacted to read:

11

(b) A person who violates AS 04.11.010 in an area where the

12

results of a local option election have, under AS 04.11.490 - 04.11.-

13

500, prohibited the board from issuing, renewing, or transferring one

14

or more types of licenses or permits under this title in the area is,

15

upon conviction, guilty of a class C felony.

Introduced: 1/19/87
Referred: State Affairs, Health, Education
and Social Services, Judiciary
and Finance

5-0155A

1 IN THE SENATE

BY BINKLEY

2

SENATE BILL NO. 51

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to alcohol."

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

8 * Section 1. AS 04.16.200(b) is repealed and reenacted to read:

9 (b) A person who violates AS 04.11.010 in an area where the
10 results of a local option election have, under AS 04.11.490 - 04.11.-
11 500, prohibited the board from issuing, renewing, or transferring one
12 or more types of licenses or permits under this title in the area is,
13 upon conviction, guilty of a class C felony.

SB 553

Rec'd 5/19/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____ Bill Version: HB 63 & SB 53
Publish Date: _____
Revision Date: 5/8/87 Agency Affected: Fish and Game
Title An Act authorizing Bd. of Fish BRU: _____
to adopt regulations establishing certain types of registration
Sponsor: Hoffman/Binkley and use areas Components: _____
Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Roland Shanks Phone: 465-4100
Division: Commissioner's Office Date: 5/18/87
Approved by Commissioner: (Orme) Callinsworth Date: 5.14.87
Agency: Fish and Game

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

RECEIVED
MAY 19 1987

LEGISLATIVE FINANCE

SENATE COMMITTEE REPORT

FURTHER:

DATE TURNED INTO OFFICE 4/28/87

Mr. President:

FINANCE Committee considered SB 53

relating to the Board of Fisheries.

and recommended:

replace with CS FOR CS 53 (FIN)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

[Handwritten signatures]

OTHER RECOMMENDATIONS

[Handwritten notes]

[Handwritten signature] DO PASS
Chairman signature and recommendation

Committee Backup Attached

N

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 53 (Rev)
Publish Date: 1/22/87

Revision Date: _____
Title: An Act relating to the
Board of Fisheries
Sponsor: Hoffman
Requestor: _____

Agency Affected: Fish and Game
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0					

CAPITAL	0					
---------	---	--	--	--	--	--

REVENUE	0					
---------	---	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Roland Shanks Phone: 465-4100
Division: Commissioner's Office Date: 3/2/87

Approved by Commissioner: [Signature] Date: 3/2/87
Agency: Fish and Game

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

CSSB 53 (FIN)

LEGISLATIVE INTENT

The Legislature believes that the Board of Fisheries presently has the authority to establish regulations where appropriate to prevent severe economic distress among commercial fishermen and those dependent upon them for a livelihood, such as the superexclusive use area and vessel restriction regulations established in certain Bering Sea herring fisheries. The Legislature intends that this legislation clarify and confirm the Board's authority in making the type of allocative decisions exhibited by the Bering Sea herring regulations, and that through this legislation, the Legislature seeks to resolve any doubts raised by the Hebert case as to whether the Board of Fisheries had the authority to establish superexclusive use areas.

5-0156L ✓
Hein
4/27/87

Original sponsor: Binkley

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 53 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing criteria for the allocation of
7 fishery resources by the Board of Fisheries among
8 commercial fisheries and among groups of commercial
9 fishermen within an administrative area for the
10 purpose of preventing economic distress among commer-
11 cial fishermen and those dependent upon them for a
12 livelihood; and providing for an effective date."

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

14 * Section 1. AS 16.05.251 is amended by adding a new subsection to
15 read:

16 (f) For the purpose of preventing economic distress among com-
17 mercial fishermen and those dependent upon them for a livelihood, the
18 board shall establish criteria for the allocation of fishery resources
19 among commercial fisheries and among groups of commercial fishermen
20 within an administrative area. In establishing criteria under this
21 subsection, the board shall use the same factors that it includes in
22 criteria established under (e) of this section.

23 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
24
25
26
27
28
29

Senator Johne Binkley

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



Finance Committee
Co-Chairman

M E M O R A N D U M

April 25, 1987

TO: SENATE FINANCE COMMITTEE

FROM: SENATOR JOHN E BINKLEY, CO-CHAIRMAN *Johne*
Senate Finance Committee

Subj: CS for SB 53: "An Act establishing criteria for the allocation of fishery resources by the Board of Fisheries among commercial fisheries and among groups of commercial fishermen within a fishery for the purpose of preventing economic distress among commercial fishermen and those dependent upon them for a livelihood; and providing for an effective date."

For several years local advisory committees and fishermen attempted to resolve the problem of how people in the Cape Romanzof, Norton Sound, Nelson Island, Nunivak Island, and Goodnews Bay areas could be given the opportunity to develop commercial herring fisheries as part of their economic base. The regulation which later became known as "superexclusive use area" 1/ was first adopted by the Board of Fisheries in 1982. It was intended to assist people in certain western Alaska areas who were recognized as being among the most economically disadvantaged in the state.

1/ A person who participates as a permit holder in a superexclusive use area may not during the same season participate either as a permit holder or a crewmember in either another superexclusive use area or any nonexclusive area. The regulation also provides that a person who participates as a crewmember in commercial herring fishing in a superexclusive use area may not during the same season participate as a permit holder in either another superexclusive use area or any nonexclusive area. Under the regulation, a person may participate--as a crewmember only--in commercial herring fishing in all the areas, superexclusive and nonexclusive.

The regulation reflects a decision by the board to construct a mechanism which would allow those people in those communities to develop the knowledge, skills and financial base to insure that their participation in the commercial herring fisheries would continue, and would not be overwhelmed by the more efficient, larger vessels with more ample financial backing from other areas of the state and outside the state.

In conjunction with continuing and expanding the superexclusive use areas, the board entered written findings regarding superexclusive areas for the Arctic/Yukon/Kuskokwim (AYK) herring fisheries. The board noted in the findings that the superexclusive use area, though not appropriate for all fisheries, is a management tool that has enabled the "orderly conservation and development" of the AYK herring fisheries. The board has also found that the commercial herring fisheries are an important segment of the local economies of these communities, in which there are "few employment alternatives to commercial [herring] fishing."

The board found that the herring fisheries were only recently developing, and that the local people "in general do not have sophisticated equipment or skills," though they "do have the capability to fully harvest and utilize all available resources in their area." The board expressed the intent to allow local people the "opportunity to acquire the skills and equipment so that they may fairly compete" with the other, more efficient fishing fleets, and noted that superexclusive use areas would permit the local people the time to develop "those skills needed to be competitive," and income generated from the fisheries would enable them to upgrade their vessels and gear.

The board noted that because the fisheries in question are "so recently developed compared to other Alaska sac roe fisheries," there is less knowledge of the resource status than elsewhere in the state. The board concluded that regulations which "reduce the amount of effort and efficiency of the participants" or which reduce the growth rate of effort and efficiency are necessary. Further, a "slower paced fishery on stocks of unknown magnitude, distribution, and resiliency" is desirable. Finally, the significant degree of subsistence utilization of the herring resource in the region, compared to other regions in the state, "supports the board's desire for a cautious, conservative regulatory environment."

The intent of the board to assist the local communities in developing their fishing capabilities so that they may be competitive with the other more efficient components of the herring fishery throughout the state has been consistent from the outset. The data developed over the years for which the regulation was adopted indicates that this regulatory mechanism promotes the intended results.

The board has expressed concern that the lack of data on these particular herring resources, and the reliance of the area on herring for subsistence uses, a slow paced, less efficient fishery is appropriate. As the skills and technology of the local people increase, and as the knowledge of those herring resources grows, the board may determine it is appropriate at a later date to remove this regulatory mechanism.

On February 6, 1986, a criminal complaint was filed in the district court for the second judicial district at Nome, alleging that a Mr. Hebert had violated 5 AAC 27.987(a) and (b) during June 1985, by delivering herring as a permit holder in a superexclusive use area (Norton Sound) and in nonexclusive areas (Bristol Bay and Security Cove) during the same season. On May 5, 1986, a motion to dismiss was filed on behalf of Mr. Hebert. On August 18, 1986, the court dismissed the case, holding that the regulation did not serve any conservation purpose, and that the allocation purpose intended by the board exceeded its authority. On September 19, 1986, the state filed a notice of appeal from the court's decision. On October 21, 1986, the Court of Appeals granted the state's motion for leave to have filed a late notice of appeal.

In essence, the District Court found that the board acted outside the scope of its statutory authority when it established the superexclusive use areas at Cape Romanzof and Norton Sound. Although the court recognized that improving and maintaining the economic health of those localities is a "legitimate and highly desirable goal for the state," the board has the authority to act only for the purposes of conserving or developing the fishery resources of the state. And although the board has authority under AS 16.05.251(e) to allocate among different fishery user groups (i.e., personal use, sport, and commercial), the board does not have authority to allocate among members of a single user group, the court said.

CS for SB 53 would remedy the problems pointed out by the court.

Section 1 expands the authority of the board by allowing it to prevent economic distress among commercial fishermen and those dependent upon them for a livelihood by establishing criteria for the allocation of fishery resources among commercial fisheries and among groups of commercial fishermen within a fishery. Granting the board such authority is consistent not only with the Hebert case, but also with Art. VIII, sec. 15, of the Alaska Constitution. That section allows the state to limit entry into any fishery to prevent economic distress among fishermen and those dependent upon them for a livelihood. This is an exception to the prohibition in that same section against the establishment of an exclusive right or special privilege of fishery.

Section 2 of the bill provides for an immediate effective date.

There are mechanisms in place which would prevent arbitrary abuse by the board in making allocation determinations as a result of this bill. For instance, Article VIII, section 17 of the state constitution states that "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." Article VIII, section 2, requires the legislature to "provide for the utilization, development, and conservation of all natural resources . . . for the maximum benefit of its people." And AS 16.05.251(e) requires the board to establish criteria for allocations. These provisions should be adequate to protect against arbitrary abuse of the board's discretion.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: CSSB 53 (Resources)
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to the
Board of Fisheries"

Agency Affected: Department of Law
BRU: Legal Services

Sponsor: Senate Resources Committee
Requestor: Senator Eliason

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: March 6, 1987

Approved by Commissioner: Richard I. Pegues / FUR
Grace Berg Schaible, Atty. Gen. Date: March 6, 1987
Agency: Department of Law

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

RECEIVED

MAR 09 1987

LEGISLATIVE FINANCE

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 53

CSSB 53

This bill amends AS 16.05 by clarifying the Board of Fisheries' authority to allocate fishery resources among and within user groups. This clarification will not have a fiscal impact on the Department of Law, and it should help to diminish recurring disputes over the board's authority.

1 IN THE SENATE

BY BINKLEY

2

SENATE BILL NO. 53

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Board of Fisheries."

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

8 * Section 1. AS 16.05.221(a) is amended to read:

9 (a) For purposes of the conservation and development of the
10 fishery resources of the state, and for the purposes of enhancing and
11 protecting the ability of people to take and use the fishery resources
12 of the state, there is created the Board of Fisheries composed of
13 seven members appointed by the governor, subject to confirmation by a
14 majority of the members of the legislature in joint session. The
15 appointed members shall be residents of the state and shall be ap-
16 pointed without regard to political affiliation or geographical lo-
17 cation of residence. The commissioner is not a member of the Board of
18 Fisheries, but shall be ex officio secretary.

19 * Sec. 2. AS 16.05.251(e) is amended to read:

20 (e) The Board of Fisheries shall establish criteria for the
21 allocation of fishery resources among personal use, sport, and commer-
22 cial fishing users and groups of users. The criteria may, as appro-
23 priate to particular allocation decisions, include factors such as

24 (1) the history of each personal use, sport, and commercial
25 fishery;

26 (2) the number of residents and nonresidents who have
27 participated in each fishery in the past and the number of residents
28 and nonresidents who can reasonably be expected to participate in the
29 future;

- 1 (3) the importance of each fishery for providing residents
2 the opportunity to obtain fish for personal and family consumption;
3 (4) the availability of alternative fisheries resources;
4 (5) the importance of each fishery to the economy of the
5 state;
6 (6) the importance of each fishery to the economy of the
7 region and local area in which the fishery is located;
8 (7) the importance of each fishery in providing recrea-
9 tional opportunities for residents and nonresidents.

Original sponsor: Binkley

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 53 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Board of Fisheries."

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

8 * Section 1. AS 16.05.221(a) is amended to read:

9 (a) For purposes of the conservation and development of the
10 fishery resources of the state, and for the purposes of enhancing and
11 protecting the ability of people to take and use the fishery resources
12 of the state, there is created the Board of Fisheries composed of
13 seven members appointed by the governor, subject to confirmation by a
14 majority of the members of the legislature in joint session. The
15 appointed members shall be residents of the state and shall be ap-
16 pointed without regard to political affiliation or geographical lo-
17 cation of residence. The commissioner is not a member of the Board of
18 Fisheries, but shall be ex officio secretary.

19 * Sec. 2. AS 16.05.251(e) is amended to read:

20 (e) The Board of Fisheries shall establish criteria for the
21 allocation of fishery resources among personal use, sport, and commer-
22 cial fishing, and among groups of commercial fishermen within a fish-
23 ery. The criteria may, as appropriate to particular allocation de-
24 cisions, include factors such as

25 (1) the history of each personal use, sport, and commercial
26 fishery;

27 (2) the number of residents and nonresidents who have
28 participated in each fishery in the past and the number of residents
29 and nonresidents who can reasonably be expected to participate in the

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

1/19/87 DATE TURNED INTO OFFICE _____
Mr. President:

RESOURCES _____ Committee considered SB 53

~~relating to~~ the Board of Fisheries.

and recommended:

- replace with CS SB 53 (res) same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tommy (No Rec)
Bliss (no rec)
Paul Bluff (No Rec)
Jim Duncan (no rec)

DePas
Chairman signature and recommendation

Committee Backup Attached

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 IN THE SENATE

BY BINKLEY

2

SENATE BILL NO. 53

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Board of Fisheries."

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

8 * Section 1. AS 16.05.221(a) is amended to read:

9 (a) For purposes of the conservation and development of the
10 fishery resources of the state, and for the purposes of enhancing and
11 protecting the ability of people to take and use the fishery resources
12 of the state, there is created the Board of Fisheries composed of
13 seven members appointed by the governor, subject to confirmation by a
14 majority of the members of the legislature in joint session. The
15 appointed members shall be residents of the state and shall be ap-
16 pointed without regard to political affiliation or geographical lo-
17 cation of residence. The commissioner is not a member of the Board of
18 Fisheries, but shall be ex officio secretary.

19 * Sec. 2. AS 16.05.251(e) is amended to read:

20 (e) The Board of Fisheries shall establish criteria for the
21 allocation of fishery resources among personal use, sport, and commer-
22 cial fishing users and groups of users. The criteria may, as appro-
23 priate to particular allocation decisions, include factors such as

24 (1) the history of each personal use, sport, and commercial
25 fishery;

26 (2) the number of residents and nonresidents who have
27 participated in each fishery in the past and the number of residents
28 and nonresidents who can reasonably be expected to participate in the
29 future;

- 1 (3) the importance of each fishery for providing residents
2 the opportunity to obtain fish for personal and family consumption;
3 (4) the availability of alternative fisheries resources;
4 (5) the importance of each fishery to the economy of the
5 state;
6 (6) the importance of each fishery to the economy of the
7 region and local area in which the fishery is located;
8 (7) the importance of each fishery in providing recrea-
9 tional opportunities for residents and nonresidents.

Original sponsor: Binkley

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 53 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Board of Fisheries."

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

8 * Section 1. AS 16.05.221(a) is amended to read:

9 (a) For purposes of the conservation and development of the
10 fishery resources of the state, and for the purposes of enhancing and
11 protecting the ability of people to take and use the fishery resources
12 of the state, there is created the Board of Fisheries composed of
13 seven members appointed by the governor, subject to confirmation by a
14 majority of the members of the legislature in joint session. The
15 appointed members shall be residents of the state and shall be ap-
16 pointed without regard to political affiliation or geographical lo-
17 cation of residence. The commissioner is not a member of the Board of
18 Fisheries, but shall be ex officio secretary.

19 * Sec. 2. AS 16.05.251(e) is amended to read:

20 (e) The Board of Fisheries shall establish criteria for the
21 allocation of fishery resources among personal use, sport, and commer-
22 cial fishing, and among groups of commercial fishermen within a fish-
23 ery. The criteria may, as appropriate to particular allocation de-
24 cisions, include factors such as

25 (1) the history of each personal use, sport, and commercial
26 fishery;

27 (2) the number of residents and nonresidents who have
28 participated in each fishery in the past and the number of residents
29 and nonresidents who can reasonably be expected to participate in the

- 1 future;
- 2 (3) the importance of each fishery for providing residents
- 3 the opportunity to obtain fish for personal and family consumption;
- 4 (4) the availability of alternative fisheries resources;
- 5 (5) the importance of each fishery to the economy of the
- 6 state;
- 7 (6) the importance of each fishery to the economy of the
- 8 region and local area in which the fishery is located;
- 9 (7) the importance of each fishery in providing recrea-
- 10 tional opportunities for residents and nonresidents.

S B 5 5

2/3/88
H (FIN)

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: ADF&G
Title: Minto Flats State Game Refuge BRU: Habitat
Sponsor: _____ Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES			60,000			
TRAVEL			5,000			
CONTRACTUAL			8,000			
SUPPLIES			2,000			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING			75,000*			

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND			75,000			
FEDERAL FUNDS						
OTHER						
TOTAL			75,000			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

FEB 3 1988

Prepared by: Bruce H. Baker Phone: 465-4105
Division: HABITAT Date: 2/2/88
Approved by Commissioner: Don Pellinworth Date: 2-2-88
Agency: ADF&G

Distribution (by preparer): *Amount required if two plans are prepared concurrently.
Legislative Finance If existing schedule of one plan per year is adhered to,
Legislative Sponsor the operating budget would be adequate and this fiscal
Requestor note would not be necessary.
Office of Management and Budget
Impacted Agency(ies)

*Fiscal Notes
received and forwarded
on after bill
R/O.*

Minto Flats State Game Refuge Plan (would take one year to complete and would require the following expenses)

Personnel

Habitat Biologist	(18C)	10 mos.	4500/mo.	45,000
Game/Fish Biol.	(16C)	3 mos.	4000/mo.	12,000
Drafting Tech.	(14D)	1 mo.	3500/mo.	3,500
Clerk Typist	(8A)	1 mo.	2300/mo.	2,300
				<u>\$62,800</u>

Travel

One two-day trip to Fairbanks and one two-day trip to Fairbanks for 2 people

2,000

Contractual

telephone	900
photocopy	120
public notices	1,000
aerial photography	700
printing/photography/blueprinting	5,000
	<u>7,720</u>

Supplies 2,000

TOTAL \$74,520

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 55 (Res)
PUBLISH DATE: 4/14/87

3/2/88 H. 221

FISCAL NOTE

REQUEST:

Revision Date: Senate Res
Title: Minto Flats Refuge
Sponsor: Binkley/Kertulla
Requestor: Senate Res. Comm.

Agency Affected: DNR
BRU: Div. Land and Water Mgt.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Janet Burleson
Division: Land and Water Management

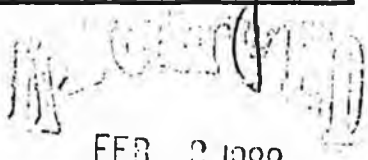
Phone: 465-3400
Date: 2/1/88

Approved by Commissioner: Judith W. Binkley
Agency: Natural Resources

Date: 2.2.88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



FEB 2 1988

LEGISLATIVE FINANCE

5/7/87 H (R15)
 Note held after
 Bill #/s

STATE OF ALASKA 1987 LEGISLATIVE SESSION
 FISCAL NOTE

Bill Version : CSSB 55
 Publish Date : _____
 REQUEST: _____
 Revision Date: _____
 Title : Minto Flats State Game Refuge
 Agency Affected: Dept. of Fish and Game
 BRU: Habitat Division
 Sponsor : _____
 Requestor : _____
 Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES				60,000		
TRAVEL				5,000		
CONTRACTUAL				8,000		
SUPPLIES				2,000		
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING				75,000*		

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND				75,000		
FEDERAL FUNDS						
OTHER						
TOTAL				75,000		

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Preparation of the Minto Flats State Game Refuge Management Plan.

Prepared by: Bruce Baker
 Division: Habitat Division Phone: 465-4105
 Date: 5/5/87
 Approved by Commissioner: Don Collinsworth Date: 5.6.87
 Agency: Department of Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

*Amount required only if the plans are prepared concurrently in FY90-FY91. If the existing schedule of one plan per year is adhered to, the operating budget would be adequate and this fiscal note would not be necessary.

MAY 07 1987

page 1 of 1

May 1987

SB55 Fiscal Note
Summary of Personal Services Costs

<u>Job Class</u>	<u>Location</u>	<u>Months</u>	<u>Cost</u>
Habitat Biologist III*	Anchorage	6	31.0
Habitat Biologist III	Division-wide	3	12.0
Clerk Typist III	Anchorage	3	7.0
Drafting Technician III	Anchorage	3	<u>10.0</u>
		TOTAL:	60.0

*Project Manager

May 1987

ALASKA DEPARTMENT OF FISH AND GAME SPECIAL AREA PLANNING SCHEDULE

(DRAFT)

State FY87

Palmer Hay Flats State Game Refuge Management Plan.
1985 - November 1986.

State FY87 - FY88

Susitna Flats State Game Refuge Management Plan.
November 1986 - November 1987.

State FY88 - FY89

Anchor River/Fritz Creek Critical Habitat Area Management Plan.
November 1987 - November 1988.

State FY89 - FY90

*Anchorage Coastal Wildlife Refuge Management Plan.
November 1988 - November 1989.

State FY90 - FY91

Mendenhall Wetlands State Game Refuge Management Plan or
*Minto Flats State Game Refuge Management Plan.
November 1989 - November 1990.

*Depending upon legislative designation.

July 1, 1985

Special Area Plans
Proposed Order of Priority

TOP
PRIORITY

Anchorage Coastal Wildlife Refuge*
Palmer Hay Flats State Game Refuge
Susitna Flats State Game Refuge

2nd
Priority
Group

Mendenhall State Game Refuge
Kachemak Bay State Critical Habitat Area
Anchor River/Fritz Creek Critical Habitat Area**
Trading Bay State Game Refuge
Fox River Flats State Critical Habitat Area
Copper River Delta State Critical Habitat Area
Clam Gulch State Critical Habitat Area
Goose Bay State Game Refuge

3rd
Priority
Priority

Port Moller State Critical Habitat Area
Port Heiden State Critical Habitat Area
Egegik State Critical Habitat Area
Pilot Point State Critical Habitat Area
Cinder River State Critical Habitat Area
Izembek State Game Refuge

4th
Priority
Group

Walrus Island State Game Refuge
Cape Newenham State Game Refuge
McNeil River State Game Sanctuary
Kalgin Island State Critical Habitat Area

5th
Priority
Group

Chilkat River State Critical Habitat Area
Creamer's Field Migratory Waterfowl Refuge

* First priority after legislative passage

** To be completed by 1989 as per legislative mandate

May 1987

SUSITNA FLATS STATE GAME REFUGE
MANAGEMENT PLAN COMPLETION SCHEDULE

May - June	Interagency planning team prepares draft refuge management plan.
July - August	Public reviews draft refuge management plan. Public hearings are held.
September - October	Staff summarizes public review and interagency planning team finalizes the refuge management plan.
November - December	Department of Fish and Game implements the Susitna Flats State Game Refuge Management Plan.

SENATE COMMITTEE REPORT

FURTHER:

4/14/87

DATE TURNED INTO OFFICE 4/21/87

Mr. President:

FINANCE

Committee considered SB 55

establishing the Minto Flats State Game Refuge; efd.

and recommended:

[] replace with CS FOR _____) [] same title
[] or adopt _____ CS FOR SB 55 (RAS)) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous
[] zero 4/10/87 [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Paul F. Sharkey

Paul Bush

John D. ...

John ...

Winnie ...

[Signature]

John B. ... DO PASS
Chairman signature and recommendation

[] Committee Backup Attached

11/12

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CS (Resources) SB55
Publish Date: 4/10/87

Revision Date: _____ Agency Affected: Fish and Game
Title: Hinto Flats State Game Refuge BRU: Habitat

Sponsor: Senator Binkley Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0				
TRAVEL		0				
CONTRACTUAL		0				
SUPPLIES		0				
EQUIPMENT		0				
LAND & STRUCTURES		0				
GRANTS, CLAIMS		0				
MISCELLANEOUS		0				
TOTAL OPERATING		0				

CAPITAL		0				
---------	--	---	--	--	--	--

REVENUE		0				
---------	--	---	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by: Bruce H. Baker Phone: 465-4100
Division: Habitat Date: 4/10/87

Approved by Commissioner: Omni Celestino Date: 4.10.87
Agency: Fish and Game

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

11/8

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : CSSB 55 (CRA)

Publish Date : 4-14-87

Revision Date: Senate Resources

Agency Affected: Natural Resources

Title: Minro Flats Refuge

BRU: Land & Water Management

Sponsor: Binkley & Kerttula

Components: _____

Requestor: Senate Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

The Department of Natural Resources currently manages this land. Changing its status is not expected to significantly increase management costs. Personnel already in the system will be used. The Department expects to manage this land in accordance with provisions of the current Tanana Basin Management Plan.

Prepared by: Andrew W. Pekovich Phone: 465-3400

Division: Land & Water Management Date: 04/13/87

Approved by Commissioner: Carol Wisdom for JMB Date: 04/13/87

Agency: Department of Natural Resources

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

NO. 117

118
MJC

Bill Version: CS 53 55 (C+RA)
Publish Date: 3-11-87

REQUEST: _____
Revision Date: _____
Title: Minto Flats State Game
Refuge
Sponsor: Senator Binkley
Requestor: _____

Agency Affected: Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0				
TRAVEL		0				
CONTRACTUAL		0				
SUPPLIES		0				
EQUIPMENT		0				
LAND & STRUCTURES		0				
GRANTS, CLAIMS		0				
MISCELLANEOUS		0				
TOTAL OPERATING		0				

CAPITAL		0				
---------	--	---	--	--	--	--

REVENUE		0				
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME						
TEMPORARY						

ANALYSIS :

Prepared by: Roland Shanks
Division: Commissioner's Office
Approved by Commissioner: [Signature]
Agency: Fish and Game

Phone: 465-4100
Date: 2/4/87
Date: 2.5.87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Original sponsors: Binkley and Kerttula

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 55 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act establishing the Minto Flats State Game
7 Refuge; and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 16.20 is amended by adding a new section to read:
10 Sec. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-
11 ing state-owned land and water is established as the Minto Flats State
12 Game Refuge:
13 (1) Township 1 North, Range 6 West, Fairbanks Meridian
14 Sections 2 - 11
15 Sections 14 - 23
16 Sections 26 - 34
17 (2) Township 1 North, Range 7 West, Fairbanks Meridian
18 Sections 1 - 36
19 (3) Township 1 North, Range 8 West, Fairbanks Meridian
20 Sections 1 - 16
21 Sections 21 - 28
22 Section 35: E1/2
23 Section 36
24 (4) Township 1 North, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12
26 (5) Township 1 North, Range 10 West, Fairbanks Meridian
27 Sections 1 - 12
28 (6) Township 1 North, Range 11 West, Fairbanks Meridian
29 Sections 1 - 4

1 Sections 8 - 17

2 Sections 20 - 29

3 (7) Township 2 North, Range 6 West, Fairbanks Meridian

4 Sections 1 - 36

5 (8) Township 2 North, Range 7 West, Fairbanks Meridian

6 Sections 1 - 36

7 (9) Township 2 North, Range 8 West, Fairbanks Meridian

8 Sections 1 - 36

9 (10) Township 2 North, Range 9 West, Fairbanks Meridian

10 Sections 1 - 36

11 (11) Township 2 North, Range 10 West, Fairbanks Meridian

12 Section 3

13 Sections 8 - 10

14 Section 11: S1/2N1/2, S1/2

15 Section 12: S1/2N1/2, S1/2

16 Sections 13 - 36

17 (12) Township 2 North, Range 11 West, Fairbanks Meridian

18 Sections 13 - 15

19 Sections 22 - 27

20 Sections 34 - 36

21 (13) Township 3 North, Range 6 West, Fairbanks Meridian

22 Sections 13 - 36

23 (14) Township 3 North, Range 7 West, Fairbanks Meridian

24 Sections 6 - 8

25 Section 9: S1/2S1/2

26 Sections 13 - 36

27 (15) Township 3 North, Range 8 West, Fairbanks Meridian

28 Section 1

29 Sections 5 - 10

1 Sections 14 - 23
 2 Sections 25 - 36
 3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
 4 Section 24: S1/2
 5 Section 25
 6 Sections 33 - 36
 7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
 8 Sections 34 - 35
 9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
 10 Sections 2 - 9
 11 Sections 16 - 21
 12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
 13 Sections 1 - 4
 14 Section 5: S1/2
 15 Section 6: S1/2
 16 Sections 7 - 24
 17 Sections 30 - 31
 18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
 19 Sections 10 - 15
 20 Sections 22 - 27
 21 Sections 30 - 31
 22 Sections 35 - 36
 23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
 24 Section 6: W1/2
 25 Section 7: W1/2
 26 Section 18: W1/2
 27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
 28 Sections 1 - 3
 29 Section 4: SE1/4

1 Section 9: E1/2
 2 Sections 10 - 15
 3 Section 16: E1/2, SW1/4
 4 Section 20: S1/2
 5 Sections 21 - 29
 6 Sections 31 - 36
 7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
 8 Section 35: SE1/4
 9 Section 36: S1/2
 10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
 11 Sections 5 - 8
 12 Sections 17 - 20
 13 Sections 29 - 31
 14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
 15 Sections 1 - 36
 16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
 17 Sections 1 - 2
 18 Sections 11 - 14
 19 Sections 23 - 26
 20 Sections 35 - 36
 21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
 22 Sections 1 - 36
 23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
 24 Sections 7 - 36
 25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
 26 Sections 25 - 26
 27 Sections 35 - 36
 28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
 29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/4,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1

21 Sections 12 - 13

22 Sections 24 - 25

23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12

26 Section 17: W1/2NW1/4, NW1/4SW1/4

27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian

1 Sections 1 - 20
2 Section 21: NE1/4, W1/2
3 Section 22: NW1/4
4 Section 24: N1/2, N1/2S1/2
5 Sections 29 - 31
6 (35) Township 2 South, Range 11 West, Fairbanks Meridian
7 Sections 1 - 5
8 Sections 7 - 36
9 (36) Township 2 South, Range 12 West, Fairbanks Meridian
10 Sections 25 - 26
11 Sections 35 - 36
12 (37) Township 3 South, Range 7 West, Fairbanks Meridian
13 Section 5: N1/2NE1/4, W1/2
14 Sections 6 - 7
15 Section 18: NE1/4, W1/2, N1/2SE1/4, SW1/4SE1/4
16 (38) Township 3 South, Range 8 West, Fairbanks Meridian
17 Section 1
18 Section 12
19 Section 13
20 Section 22: NE1/4 (that portion above the ordinary
21 high water mark right bank Tanana River)
22 Section 23: N1/2, SE1/4.
23 Section 24: N1/2, SW1/4
24 Section 25: NW1/4
25 (39) Township 3 South, Range 11 West, Fairbanks Meridian
26 Sections 2 - 10
27 Section 11: N1/2
28 Section 14: SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4
29 Sections 15 - 21

1 Section 22: NE1/4, W1/2, W1/2SE1/4
2 Section 23: NW1/4
3 Section 27: W1/2NE1/4, NW1/4, W1/2SW1/4
4 Sections 28 - 31
5 Section 32: NE1/4, NW1/4, SE1/4
6 Section 33: W1/2
7 (40) Township 3 South, Range 12 West, Fairbanks Meridian
8 Sections 1 - 2
9 Sections 11 - 14
10 Sections 23 - 26
11 Sections 35 - 36

12 (b) The Minto Flats State Game Refuge is established to
13 (1) ensure the protection and enhancement of habitat;
14 (2) ensure the conservation of fish and wildlife; and
15 (3) guarantee the continuation of hunting, fishing, trap-
16 ping and other uses by the public compatible with the protection and
17 enhancement of habitat and the conservation of fish and wildlife.

18 (c) The state may not acquire by eminent domain privately owned
19 land within the Minto Flats State Game Refuge, but may acquire pri-
20 vately owned land by purchase, exchange, or otherwise for inclusion in
21 the Minto Flats State Game Refuge.

22 (d) Management decisions under this section made by the commis-
23 sioner of natural resources and the commissioner of fish and game are
24 applicable only to land and water described in (a) of this section.

25 (e) Public access to the Minto Flats State Game Refuge by means
26 of horse, boat, aircraft, dog team, snowmachine, or other means con-
27 sistent with (b) of this section may not be prohibited.

28 (f) Access to and from private property within the Minto Flats
29 State Game Refuge shall be guaranteed through access corridors

1 established through agreement between the Department of Natural
2 Resources, the Department of Fish and Game, and the private property
3 owners involved.

4 (g) The Department of Fish and Game and the Department of
5 Natural Resources shall exercise their respective authorities over the
6 Minto Flats State Game Refuge consistent with a management plan pre-
7 pared by the Department of Fish and Game in consultation with the
8 Department of Natural Resources.

9 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

4/21/87



Finance Committee
Co-Chairman

Senator John Binkley

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

MEMORANDUM

April 15, 1987

TO: SENATE FINANCE COMMITTEE MEMBERS

FROM: SENATOR JOHN BINKLEY, CO-CHAIRMAN *John Binkley*
Senate Finance Committee

Subj: CSSB 55(Res), "An Act relating to establishing the Minto Flats State Game Refuge."

Minto Flats is located in interior Alaska, 35 air miles west of Fairbanks adjacent to the village of Minto and five miles north of Nenana. The Minto Flats area is primarily low-lying wetlands fed by the Tolovana, Chatanika, and Tatalina Rivers and Goldstream and Washington Creeks. The flats are drained by the Tanana River. The proposed refuge encompasses approximately 507,136 acres.

Minto Flats supports vast concentrations of waterfowl and fur-bearing animals, as well as productive fisheries and a variety of game. The U.S. Fish and Wildlife Service has reported that the Minto Flats area is one of the highest quality waterfowl nesting habitats on the North American continent. The Service estimates that Minto Flats produces 150,000 ducks annually, supporting breeding populations averaging 213 ducks per square mile.

The Minto Flats area is used year-round by residents of Minto and Nenana as primary subsistence hunting, fishing and trapping grounds. In addition, sportsmen from Fairbanks and other areas hunt, fish and trap extensively in the Minto Flats area.

Minto Flats is the third most popular duck hunting area in the state, logging over 5,000 hunter days with over 11,000 ducks and 700 geese taken annually. Minto Flats is also one of the most productive sports fisheries in the state; each year over 800 anglers spend 1,800 days fishing in the Minto Flats area harvesting over 2,300 fish. In addition, over 100 beavers are taken each year on Minto Flats. Land otter, lynx, wolverine, wolf, red fox, mink and muskrat are also regularly trapped on the flats.

The proposed legislation to establish the Minto Flats State Game Refuge has the endorsement of a wide range of user and interest groups throughout the region. Support for the bill comes from the Alaska Outdoor Council, Arctic Audubon, Cleary Sky Sportsmen Club, Fairbanks Fish and Game Advisory Committee, Healy/Clear Fish and Game Advisory Committee, Minto Native Council, Nenana Native Council, Northern Alaska Environmental Center, Seth-de-ya-ah Corporation (Fairbanks), Tanana Chiefs Conference, and the Tanana Valley Sportsman Association.

The bill to establish the Minto Flats State Game Refuge is in response to the findings of the Tanana Basin Area Plan. The Resources Committee Substitute for Senate Bill 55 accomplishes the following:

1. establishes Minto Flats State Game Refuge;
2. identifies the purpose for which the area is established;
3. ensures the protection and enhancement of fish and game and their habitat in the area;
4. ensures the conservation of fish and wildlife; and
5. guarantees the perpetuation of hunting, fishing, trapping, and other uses compatible with the protection of habitat and the conservation of fish and wildlife;
6. provides for acquisition of private property from willing owners;
7. guarantees continued access to private inholdings;
8. provides for the management of Minto Flats State Game Refuge including development of a management plan.

The Resources Committee Substitute differs from the Community and Regional Affairs Committee version in the following:

1. (b) Minor language changes regarding purpose.
2. (d) New subsection. Management decisions by the Departments of Fish and Game and Natural Resources apply only to the water and land within the boundaries of the refuge.
3. (f) Minor language changes regarding access to private inholdings.
4. Mineral closure section deleted.

4/21/87

10/85

WHAT IS A STATE GAME REFUGE?

State game refuges are multiple use areas established by the legislature for the protection of productive fish and wildlife habitats and for the public's use and enjoyment.

Alaska Statute 16.20.020 states, "The purpose (of establishing state game refuges) is to protect and preserve the natural habitat and game population in certain designated areas of the state."

State game refuges have a history that is old as the State of Alaska itself. In 1960 the first two state game refuges, Izembek and Chagvan Bay (Cape Newenham), were set aside for waterfowl and shorebirds. Over the years, as one or another outstanding area came to the attention of Alaskans and their legislators, other state game refuge's were established.

Protection of fish and wildlife and their habitats and maintenance of public use is the primary focus of the Department of Fish and Game's game refuge management program. Activities which are encouraged and do not require a refuge permit include hunting, fishing, trapping, public access, recreational activities (hiking, skiing, horseback riding, dog team travel, camping, mountain climbing, etc.), boating, berry picking, firewood gathering (dead and down timber) and many others. Other land use activities are

allowed in a manner compatible with these primary values. These other activities which may impact primary uses are authorized through a special area permit system administered by the Habitat Division, Alaska Department of Fish and Game.

Multiple uses which pre-date creation of the refuge and multiple uses which fulfill important public needs for which there is no feasible alternative site are permitted on the refuge. But they must be conducted in a manner compatible with the fish and wildlife values and public use for which the area was established.

Why is it important to establish this area as a state game refuge? Each year the status of state lands changes dramatically. Some lands are sold; some lands are leased for development. Creating a state game refuge guarantees that the land will remain in public ownership and will be managed to maintain fish and wildlife populations.

Behind each one of our state game refuges are citizens who enjoy using the area and who helped to get the area designated a state game refuge. As the years go by many things will change, but through the foresight of Alaskans and their Legislature, state game refuges will always remain for the wildlife, for the fish, and for the people to enjoy.

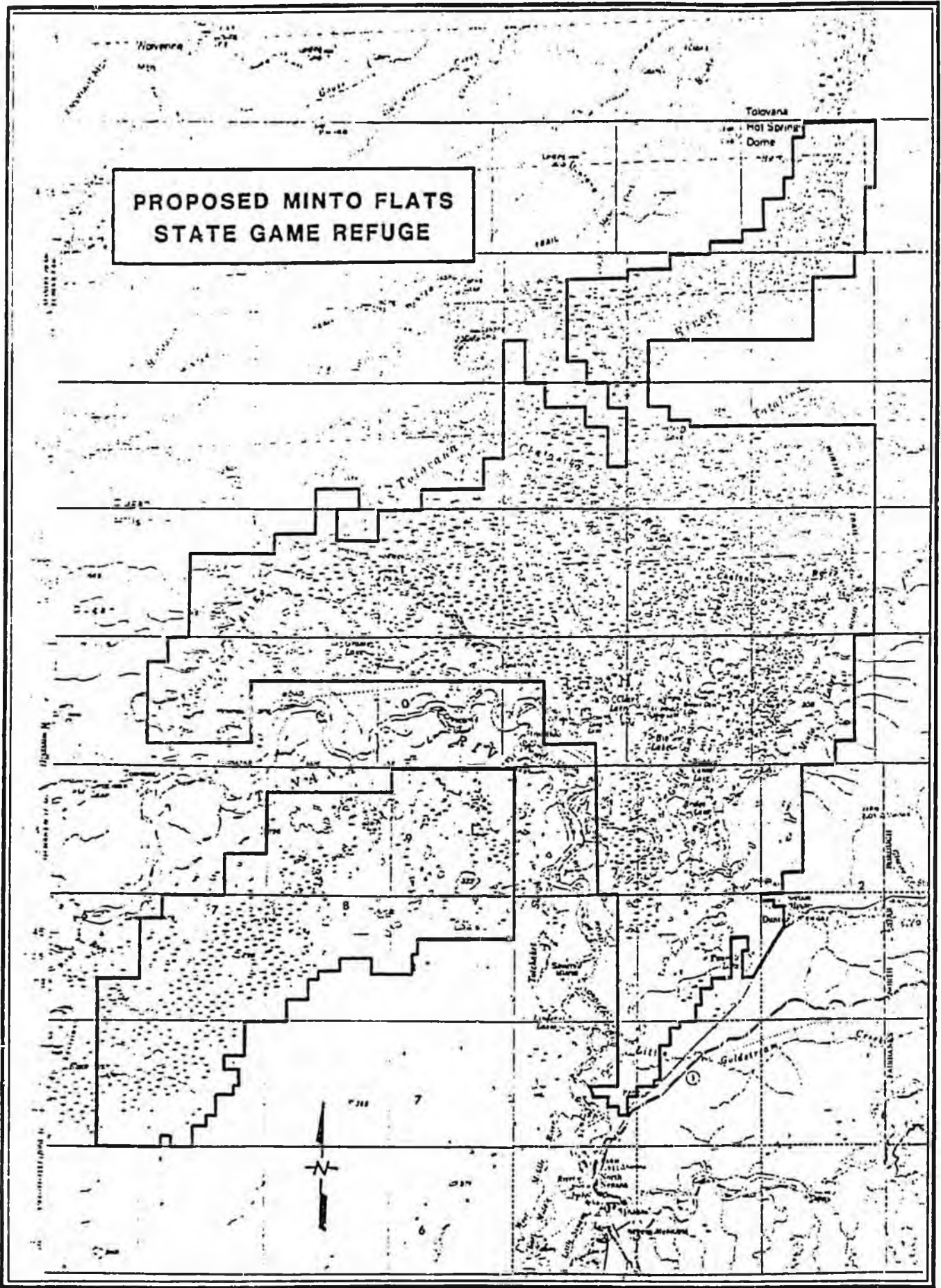
<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Palmer Hay Flats	Personal Use Cabins (8)	Approved
Palmer Hay Flats	Pipeline Survey	Approved
Palmer Hay Flats	Natural Gas Pipeline	Approved
Palmer Hay Flats	Grazing Lease	Denied
Palmer Hay Flats	Gravel Fill and Bridge	Approved
Trading Bay	Personal Use Cabins (19)	Approved
Trading Bay	Negotiated Lease (Set Net Cabin)	Approved
Susitna Flats	Personal Use Cabin (111)	Approved
Susitna Flats	Gravel Mining	Approved
Susitna Flats	Negotiated Lease (3 Commercial Cabins)	Approved
Susitna Flats	Negotiated Lease (Set Net Cabin)	Approved

<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Susitna Flats	Insect poisoning removal	Approved
Susitna Flats	Seismic Exploration	Approved
Susitna Flats	Negotiated Lease (Set Net Cabin)	Approved
Susitna Flats	Negotiated Lease (6 Commercial Cabins)	Approved
Susitna Flats	Gravel Mining	Approved
Susitna Flats	Transmission Line Upgrade	Approved
Susitna Flats	Bridge Repair/Log Jam Removal	Approved
Susitna Flats	Fisheries Research Station	Approved
Susitna Flats	Gas Wells/Pipeline	Approved
Susitna Flats	Gravel Extraction	Approved
Susitna Flats	Gravel Extraction	Denied

<u>PERMIT</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Susitna Flats	Pipeline Survey	Approved
Susitna Flats	Road Upgrade	Approved
Susitna Flats	Natural Gas Pipeline	Approved
Susitna Flats	Motorized Vehicle Use	Approved
Susitna Flats	Barge Landing	Approved
Susitna Flats	Storage Yard	Approved
Susitna Flats	Hydrological Research	Approved
Susitna Flats	Winter/Ice Road	Approved
Susitna Flats	Survey/Brush Clearing	Approved
Susitna Flats	Material Extraction	Denied
Susitna Flats	Transmission Line	Approved
Goose Bay	Leach Field Construction	Approved
Goose Bay	Seismic Exploration	Approved

<u>REFUGE</u>	<u>ACTIVITY</u>	<u>DECISION</u>
Goose Bay	Road and Utility Corridor Construction	Approved
Potter Point	Erosion Control Outfall/ Stilling Basin	Approved
Potter Point	Roadway/Parking Area	Approved
Izembek	Gravity Survey	Approved
Mendenhall Wetlands	Buried Sewer Outfall Line	Approved
Mendenhall Wetlands	Airport Maintenance	Approved
Mendenhall Wetlands	Salmon Rearing Pens	Approved
Mendenhall Wetlands	Stream Channel Alternation	Denied
Mendenhall Wetlands	Log Transfer and Storage	Approved

4/21/87



**PROPOSED MINTO FLATS
STATE GAME REFUGE**

1 IN THE SENATE

BY BINKLEY AND KERTTULA

2

SENATE BILL NO. 55

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Minto Flats State Game

7

Refuge; and providing for an effective date."

8

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

9

* Section 1. AS 16.20 is amended by adding a new section to read:

10

Sec. 16.20.037. MINTO FLATS STATE GAME REFUGE. (a) The follow-

11

ing state-owned land and water is established as the Minto Flats State

12

Game Refuge:

13

(1) Township 1 North, Range 6 West, Fairbanks Meridian

14

Sections 2 - 11

15

Sections 14 - 23

16

Sections 26 - 34

17

(2) Township 1 North, Range 7 West, Fairbanks Meridian

18

Sections 1 - 36

19

(3) Township 1 North, Range 8 West, Fairbanks Meridian

20

Sections 1 - 16

21

Sections 21 - 28

22

Section 35: E1/2

23

Section 36

24

(4) Township 1 North, Range 9 West, Fairbanks Meridian

25

Sections 1 - 12

26

(5) Township 1 North, Range 10 West, Fairbanks Meridian

27

Sections 1 - 12

28

(6) Township 1 North, Range 11 West, Fairbanks Meridian

29

Sections 1 - 4

1 Sections 8 - 17
 2 Sections 20 - 29
 3 (7) Township 2 North, Range 6 West, Fairbanks Meridian
 4 Sections 1 - 36
 5 (8) Township 2 North, Range 7 West, Fairbanks Meridian
 6 Sections 1 - 36
 7 (9) Township 2 North, Range 8 West, Fairbanks Meridian
 8 Sections 1 - 36
 9 (10) Township 2 North, Range 9 West, Fairbanks Meridian
 10 Sections 1 - 36
 11 (11) Township 2 North, Range 10 West, Fairbanks Meridian
 12 Section 3
 13 Sections 8 - 10
 14 Section 11: S1/2N1/2, S1/2
 15 Section 12: S1/2N1/2, S1/2
 16 Sections 13 - 36
 17 (12) Township 2 North, Range 11 West, Fairbanks Meridian
 18 Sections 13 - 15
 19 Sections 22 - 27
 20 Sections 34 - 36
 21 (13) Township 3 North, Range 6 West, Fairbanks Meridian
 22 Sections 13 - 36
 23 (14) Township 3 North, Range 7 West, Fairbanks Meridian
 24 Sections 6 - 8
 25 Section 9: S1/2S1/2
 26 Sections 13 - 36
 27 (15) Township 3 North, Range 8 West, Fairbanks Meridian
 28 Section 1
 29 Sections 5 - 10

1 Sections 14 - 23
2 Sections 25 - 36
3 (16) Township 3 North, Range 9 West, Fairbanks Meridian
4 Section 24: S1/2
5 Section 25
6 Sections 33 - 36
7 (17) Township 3 North, Range 10 West, Fairbanks Meridian
8 Sections 34 - 35
9 (18) Township 4 North, Range 6 West, Fairbanks Meridian
10 Sections 2 - 9
11 Sections 16 - 21
12 (19) Township 4 North, Range 7 West, Fairbanks Meridian
13 Sections 1 - 4
14 Section 5: S1/2
15 Section 6: S1/2
16 Sections 7 - 24
17 Sections 30 - 31
18 (20) Township 4 North, Range 8 West, Fairbanks Meridian
19 Sections 10 - 15
20 Sections 22 - 27
21 Sections 30 - 31
22 Sections 35 - 36
23 (21) Township 5 North, Range 5 West, Fairbanks Meridian
24 Section 6: W1/2
25 Section 7: W1/2
26 Section 18: W1/2
27 (22) Township 5 North, Range 6 West, Fairbanks Meridian
28 Sections 1 - 3
29 Section 4: SE1/4

1 Section 9: E1/2
2 Sections 10 - 15
3 Section 16: E1/2, SW1/4
4 Section 20: S1/2
5 Sections 21 - 29
6 Sections 31 - 36
7 (23) Township 5 North, Range 7 West, Fairbanks Meridian
8 Section 35: SE1/4
9 Section 36: S1/2
10 (24) Township 1 South, Range 6 West, Fairbanks Meridian
11 Sections 5 - 8
12 Sections 17 - 20
13 Sections 29 - 31
14 (25) Township 1 South, Range 7 West, Fairbanks Meridian
15 Sections 1 - 36
16 (26) Township 1 South, Range 8 West, Fairbanks Meridian
17 Sections 1 - 2
18 Sections 11 - 14
19 Sections 23 - 26
20 Sections 35 - 36
21 (27) Township 1 South, Range 9 West, Fairbanks Meridian
22 Sections 1 - 36
23 (28) Township 1 South, Range 10 West, Fairbanks Meridian
24 Sections 7 - 36
25 (29) Township 1 South, Range 11 West, Fairbanks Meridian
26 Sections 25 - 26
27 Sections 35 - 36
28 (30) Township 2 South, Range 6 West, Fairbanks Meridian
29 Section 6: S1/2NW1/4, S1/2

1 Section 7: all North and West of the Alaska Railroad
2 right-of-way

3 Section 18: all North and West of the Alaska Railroad
4 right-of-way

5 Section 19: all North and West of the Alaska Railroad
6 right-of-way

7 (31) Township 2 South, Range 7 West, Fairbanks Meridian
8 Sections 1 - 12

9 Section 13: NE1/4, E1/2NW1/4, NE1/4SW1/4, S1/2SW1/2,
10 SE1/4

11 Section 14: W1/2

12 Sections 15 - 22

13 Section 23: W1/2

14 Section 24: all North and West of the Alaska Railroad
15 right-of-way

16 Section 27: NW1/4

17 Sections 28 - 32

18 Section 33: NE1/4NE1/4, W1/2NE1/4, W1/2, W1/2SE1/4

19 (32) Township 2 South, Range 8 West, Fairbanks Meridian
20 Section 1

21 Sections 12 - 13

22 Sections 24 - 25

23 Section 36

24 (33) Township 2 South, Range 9 West, Fairbanks Meridian
25 Sections 1 - 12

26 Section 17: W1/4NW1/4, NW1/4SW1/4

27 Section 18

28 Section 19: N1/2, N1/2S1/2

29 (34) Township 2 South, Range 10 West, Fairbanks Meridian