

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 14, HB 16 197 *197*

HB

14

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/9/87

FURTHER REFERRALS:

DATE: 4-8-87

The Finance Committee has considered HB 14

"An Act establishing a state employee incentive award system."

RECOMMENDS:

- replace with CS HB 14 (Finance) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Finance 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 _____
- zero with analysis

SIGNING DO PASS:

Pat Houchens

Ch. Swadlow

Mike Dun

St. Mont

Pat Galt

SIGNING OTHER RECOMMENDATIONS:

Alberto. Lopez - DO NOT PASS

Steve Rigney No Recommendation

Mark Buyer No Rec.

Alberto. Lopez

 Chairman's signature

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

REQUEST: _____
 Revision Date: _____
 Title: An Act establishing a State
Employee Award System
 Sponsor: Koponen
 Requestor: _____

Bill Version: CSHB 14 (fin.)
 Publish Date: _____

Agency Affected: Division of Personnel
 BRU: Personnel
 Components: Centralized Administrative
Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

An employee may receive a cash award only after an actual cost savings has been realized through the implementation of the employee's suggestion, and the cash award is based on a percentage of the savings to the state. Therefore, the granting of cash awards will not result in a net cost to the state.

Prepared by: Rep. Al Adams ^{APA} Phone: 465-3706
 Division: House Finance Committee Date: April 7, 1987

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

CSHB 14 (Fin.) Cont.

The Incentive Awards Board consists of three members who are state employees and who are located in Juneau. Therefore, no costs will be incurred by the establishment and operation of the board, and no funds will be required in order for the board to meet.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE

LETTER OF INTENT

FOR

CS HB 14 (FINANCE)

It is the intent of the House Finance Committee that regulations pertaining to the establishment of the incentive award system address the following concerns:

1. The regulations should include a system to protect the confidentiality and impartial review of all suggestions and establish a time limit for agency review.
2. Members of the Incentive Awards Board should participate in a training seminar.
3. The regulations should provide that the incentive award shall be computed on the actual savings for a twelve month period from the time the proposed change is instituted. The award shall be paid to the employee in a lump sum at the end of the twelve month period.
4. The regulations should provide for the overview of the program in general, and for the overview of each department's participation in the program in specific.
5. The regulations should provide for the continuing publicity of the program with an emphasis on the recognition of winners and the saving of state revenues. The state will announce and promote the program with material inserted in pay envelopes.
6. The regulations should provide for the review of suggestions within 90 days of their submission.

7. The regulations should provide that the awards are separate from any collective bargaining agreements.

8. The regulations should provide for an appeals process for an employee who believes that his or her idea has been successfully implemented by the state, but who has not received due compensation.

9. The regulations should provide that an employee who is not eligible to participate in the incentive awards system may not indirectly participate in the system by having his or her idea presented to the awards board by an eligible employee in the expectation of sharing the eligible employee's cash award.



Al Adams, Chair
House Finance Committee

Original sponsors: Koponen, Ellis,
Gruenberg, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 14 (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 a state employee incentive award
7 system."

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

9 * Section 1. AS 39.51 is amended by adding new sections to read:

10 ARTICLE 2. INCENTIVE AWARD PROGRAM.

11 Sec. 39.51.110. INCENTIVE AWARDS. The Incentive Awards Board
12 may authorize the commissioner of a department or the executive head
13 of an agency other than a department to pay an employee a cash award
14 and incur necessary expense for the honorary recognition of the em-
15 ployee if the employee has contributed to the efficiency, economy, or
16 other improvement of state operations by a superior suggestion, in-
17 vention, accomplishment, or other superior personal effort in con-
18 nection with or related to the employee's official employment.

19 Sec. 39.15.120. PAYMENT OF AWARDS. (a) A cash award under
20 AS 39.51.110 - 39.51.200 is in addition to the regular pay of the
21 recipient. Acceptance of a cash award constitutes an agreement that
22 the use by the state of an idea, method, or device for which the award
23 is made does not form the basis of a further claim of any nature
24 against the state by the employee.

25 (b) A department or agency may pay a cash award and the expense
26 for the honorary recognition of an employee from the appropriation
27 available to the activity or activities primarily benefiting from the
28 idea, method, or device that forms the basis for the award. The
29 commissioner of the department or head of the agency shall recommend

1 to the board the amount to be paid by each activity for an award.

2 (c) An employee may receive a cash award only if the commission-
3 er of the department or the executive head of the agency has demon-
4 strated to the satisfaction of the board that a net savings has been
5 realized by the department or agency as a direct result of the em-
6 ployee's concept or idea.

7 (d) The board may not grant an award to an employee whose idea
8 or concept requires a change in law before it may be implemented.

9 Sec. 39.51.130. AMOUNT OF AWARDS. The board may not grant a
10 cash award under AS 39.51.110 - 39.51.200 that exceeds \$25,000. The
11 amount of the award is determined by multiplying each increment of the
12 state's actual cost savings during the first 12 months of implementa-
13 tion, as determined by the board, by the following percentages and
14 adding the results:

- 15 (1) 10 percent of the first \$10,000 in savings;
16 (2) eight percent of the next \$20,000 in savings;
17 (3) six percent of the next \$30,000 in savings;
18 (4) four percent of the next \$40,000 in savings;
19 (5) two percent of the amount of savings that exceeds
20 \$100,000.

21 Sec. 39.51.140. MERITORIOUS ACHIEVEMENT. When the commissioner
22 of a department or the executive head of an agency certifies to the
23 board that an employee's superior suggestion, invention, accomplish-
24 ment, or other meritorious effort is highly exceptional and unusually
25 outstanding, but does not result in a direct savings to state govern-
26 ment, the board may approve an award consisting of a certificate of
27 merit issued by the Office of the Governor.

28 Sec. 39.51.150. LIMITATION ON AWARDS. The board may not make an
29 award to an employee

1 (1) for a suggestion that represents a part of the normal
2 duties of the employee;

3 (2) who has sole authority to implement the suggestion;

4 (3) whose duties include research or planning, unless the
5 subject matter of the suggestion is unrelated to the employee's normal
6 work assignments; or

7 (4) is developed by more than one person unless each person
8 is an employee eligible for an award under this section.

9 Sec. 39.51.160. AWARDS TO FORMER EMPLOYEES. A department or
10 agency may pay or grant an award under AS 39.51.110 - 39.51.200 not-
11 withstanding the death or separation from state service of the em-
12 ployee concerned if the suggestion, invention, accomplishment, other
13 superior personal effort, or special act or service in the public
14 interest for which the award is proposed was made or performed while
15 the employee was in the employ of the state.

16 Sec. 39.51.170. INCENTIVE AWARDS BOARD. (a) The Incentive
17 Awards Board is established in the division of personnel in the De-
18 partment of Administration.

19 (b) The board consists of the director of the division of per-
20 sonnel in the Department of Administration, and the directors of the
21 division of strategic planning and the office of management and budget
22 in the Office of the Governor. The board shall elect a chair.

23 (c) The board shall meet four times a year at a time and place
24 determined by the chair. The meetings are open to the public. A
25 majority of the membership of the board constitutes a quorum. The
26 board may not take action on a matter except by affirmative vote of a
27 majority of the board members.

28 (d) A member of the board may not act on a matter in which the
29 relationship of the member with another person creates a conflict of

1 interest.

2 (e) A member of the board may not receive an award under this
3 chapter.

4 (f) The board shall adopt regulations and conduct hearings under
5 the Administrative Procedure Act (AS 44.62).

6 Sec. 39.51.180. ANNUAL REPORT. The board shall submit a report
7 regarding the operation of the awards program to the governor by
8 January 15 of each year.

9 Sec. 39.51.200. DEFINITIONS. In AS 39.51.110 - 39.51.200

10 (1) "board" means the Incentive Awards Board;

11 (2) "employee" includes a permanent, probationary, season-
12 al, nonpermanent, temporary, or provisional employee of the executive
13 branch of state government whether in the classified, partially ex-
14 empt, or exempt service.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 14
Publish Date: HOUSE 2-2-87

REQUEST _____

Revision Date: _____
Title: An act establishing a State
Employee Incentive Award System.
Sponsor: Koponen
Requestor: _____

Agency Affected: Division of Personnel
BRU: Personnel
Components: Centralized Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
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GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

The Division of Personnel will incur no cost provided the Personnel Board is not required to hold special meetings for per diem and travel to decide the size of awards. Special meetings would add expense.

Prepared By: Diana DeSimone Phone: 465-4430
Division: Personnel Date: 1/18/87
Approved by Commissioner: Garrey Peska Date: 1/22/87
Agency: Department of Administration

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

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-3151

MEMORANDUM

TO: HONORABLE AL ADAMS, CHAIR HOUSE FINANCE

FROM: REPRESENTATIVE KOPONEN 

DATE: FEBRUARY 18, 1987

RE: HB 14 "STATE EMPLOYEE INCENTIVE AWARD SYSTEM"

I would appreciate it if you would schedule HB 14 at your earliest convenience.

HB 14 would establish a monetary incentive program to encourage suggestions by state employees to improve state operations, or to encourage employees to perform a special service in the public interest in connection with their official employment.

The legislation is consistent with AS 39.25.250(3) which requires development of "programs for the improvement of employee effectiveness and morale." In most cases, the cash awards would not exceed \$10,000. It is conceivable that technical changes in accounting practice, oil flow metering, or other petroleum or gas measures could save the state millions of dollars. In unusual cases such as these, an award not in excess of \$25,000 could be approved by the Personnel Board. The active participation of the Governor in the award process would give even greater weight to the incentive program, and would improve morale through greater recognition of the individuals contribution.

The State of Alaska does not have such a program. With revenues declining it would be in the state's interest to encourage cost saving measures wherever they can be found.

HB 14 has a zero fiscal note. I have enclosed backup material. If you need any further information on this bill, please contact me or my staff aide, Shari Paul.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-3161

POSITION PAPER
HB 14 STATE EMPLOYEE INCENTIVE AWARD SYSTEM

In government, generally, there are many work place situations in which changes can be made that would improve efficiency and reduce costs without decreasing services.

Several states, as well as the federal government, have established monetary incentive programs to encourage workers to bring their ideas to the attention of those who can implement the necessary changes. A New York state employee found a way to save \$419,000 on an agency ventilation system, while a janitor in Missouri suggested a method for installing a new lighting system that cost only \$400 instead of the projected \$3,400.

The State of Alaska does not have such a program. With revenues declining it would be in the state's interest to encourage cost saving measures wherever they can be found.

HB 14 would establish a monetary incentive program to encourage suggestions by state employees to improve state operations, or to encourage employees to perform a special service in the public interest in connection with their official employment.

The legislation is consistent with AS 39.25.250(3) which requires development of "programs for the improvement of employee effectiveness and morale." In most cases, the cash awards would not exceed \$10,000. It is conceivable that technical changes in accounting practice, oil flow metering, or other petroleum or gas measures could save the state millions of dollars. In unusual cases such as these, an award not in excess of \$25,000 could be approved by the Personnel Board. The active participation of the Governor in the award process would give even greater weight to the incentive program, and would improve morale through greater recognition of the individuals contribution.

A recent "Survey of State Practices for Recognizing Managerial Performance" provides evidence that this type of program is reaping positive benefits in other parts of the nation. These programs vary from providing recognition in the form of noncash prizes and certificates, to cash prizes that include a percentage of the savings realized by the state. I believe that such a program will benefit the state at both the monetary and human levels.

QUESTIONS AND ANSWERS REGARDING HB 14

HOW WOULD THE STATE PROMOTE AN INCENTIVE PROGRAM?

Simple means, such as notices in APEA newsletters, posters on bulletin boards, etc.

HONOR AWARDS OR JUST MONETARY?

The award could be either, with some provision set up to make the determination.

HOW WOULD THE AWARD BE PRESENTED?

Some states have an "awards ceremony" with the governor presenting the awards. In Oregon, the recipients have their pictures taken with the governor while receiving the award. Recognition is as important as actual cash.

IF A SUGGESTION IS REJECTED, HOW DO YOU KEEP SOMEONE ELSE FROM MAKING MINOR CHANGES AND CALLING THE IDEA THEIR OWN?

The commissioner or agency head would have to be discreet to a certain point. Possibly, a copy of the suggestions should be given to the Personnel Board as well as the department head. This might help alleviate any problems.

WILL THERE BE MONEY REQUIRED TO MAKE THE DECISIONS REGARDING THE AWARDS AND THE PRESENTING OF THE AWARDS?

The Personnel Board is already in existence. If the awards were to be presented in conjunction with a governor's visit to an area, there should be no extra expense. If someone was flown to Juneau just for the occasion, there would be an added expense.

WOULD THIS PROGRAM BE MANDATORY STATEWIDE, OR COULD DEPARTMENTS (AGENCIES) DECIDE WHETHER OR NOT TO BE INVOLVED?

This would be a statewide program.

SOME DEPARTMENTS HAVE LARGER BUDGETS THAN OTHERS. WOULD THERE BE A PROBLEM WITH A "LARGE BUDGET" AGENCY GIVING OUT AN EXCESSIVE AMOUNT OF AWARDS COMPARED TO AN AGENCY WITH A SMALLER BUDGET FOR COMPARABLE SUGGESTIONS?

Agencies with larger budgets might offer less money per suggestion, they could award more suggestions, but not have larger awards. Another idea would be to have all departments contribute to a "pool" from which to make awards.

SHOULD THE PROGRAM RUN FOR A LIMITED AMOUNT OF TIME?

The program would not need a limit. As time goes by, it should become more publicized and thus, could generate more cost saving ideas.

COULD AN AWARD BE SPLIT BETWEEN SEVERAL MEMBERS OF A DEPARTMENT?

Yes, the awards could be split any way it seemed logical.

WHEN AN AWARD IS PRESENTED, HOW LONG WOULD IT BE BEFORE ACTION IS TAKEN ON THE SUGGESTION?

Each suggestion will require a different amount of time to complete, however, they should have some sort of time limit such as, within the current fiscal year, etc.

POSITION PAPER

HB 14

HB 14 establishes incentive and cost-saving disclosure awards for State employees. This proposed legislation is consistent with AS 39.25.250(3) which requires development of "programs for the improvement of employee effectiveness and morale."

This legislation impacts the Personnel Board and the Division of Personnel in two ways.

Sec. 39.51.120(b) requires the board to determine the size of a cash award when a commissioner of a department or the executive head of an agency certifies to the board that a suggestion or accomplishment "is highly exceptional and unusually outstanding." The other impact comes in Sec. 39.51.140 which states the Personnel Board "may adopt regulations" in order to implement this program.

As conveyed in the attached Fiscal Note, this legislation would not require increased appropriations if matters associated with the incentive program could be added to the agendas of normally scheduled meetings. The scheduling of special meetings of the Personnel Board to decide on the amount of awards would increase expenses and, therefore, be a source of concern to the Department of Administration, Division of Personnel.

HB 14 allows much latitude on the part of a commissioner of a department or the executive head of an agency to decide the specific kind of achievement to be recognized, the size of awards not in excess of \$10,000, and the determination to certify to the Personnel Board for a larger award. The Department of Administration, Division of Personnel is concerned that this bill, as written, could lead to inconsistencies because of the lack of uniformity between departments and the absence of guidelines. Final legislation should include such clarification to ensure it is implemented in a consistent manner.

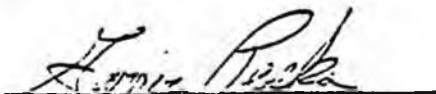
A recent "Survey of State Practices for Recognizing Managerial Performance" provides evidence that this type of program is reaping positive benefits in other parts of the nation. These programs vary from providing recognition in the form of noncash prizes and certificates to cash prizes which include a percentage of the savings realized. Based on the expectations that there will be actual savings as the result of this bill, we support it.



Diana DeSimone, Director
Division of Personnel

1/20/87

Date



Commissioner Garrey Peska
Department of Administration

1/22/87

Date

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 14
Publish Date: _____

REQUEST _____

Revision Date: _____
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Prepared By: Diana DeSimone
Division: Personnel

Phone: _____
Date: 8-17

Approved by Commissioner: Barney Peska
Agency: Department of Administration

Date: 7-22-87

Distribution (by preparer):

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

5-0013B
Cramer
3/31/87

Original sponsors: Koponen, Ellis,
Gruenberg, et al.

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9 Sec. 39.51.200. DEFINITIONS. In AS 39.51.110 - 39.51.200

10 (1) "board" means the Incentive Awards Board;

11 (2) "employee" includes a permanent, probationary, season-
12 al, nonpermanent, temporary, or provisional employee of the executive
13 branch of state government whether in the classified, partially ex-
14 empt, or exempt service.



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
EXECUTIVE OFFICE OF THE GOVERNOR

CECIL D. ANDRUS
Governor

Statehouse
Boise, ID 83720

January 13, 1987

(208) 334-3900

Cardise L. Griffin
Legislative Assistant
State of Alaska
Office of the Governor
P.O. Box A
Juneau, Alaska 99801-0101

Dear Ms. Griffin:

Enclosed is a copy of the State of Idaho's statutory language for the Employee Incentive Award, per your recent request to Governor Evans.

Sincerely,

A handwritten signature in cursive script that reads "Susan K. Simmons".

Susan K. Simmons
Financial Management Analyst

SS:sg

encl.

any of the purposes of this act as well as gifts and donations from individuals and private organizations or foundations. [1970, ch. 69, § 4, p. 165.]

Compiler's notes. The words "this act" refer to S.L. 1970, ch. 69, compiled herein as §§ 67-6001 — 67-6008.

67-6005. State departments and agencies to cooperate. — The commission shall have the full cooperation of all executive departments and agencies of the state in obtaining information and performing its duties. [1970, ch. 69, § 5, p. 165.]

67-6006. Report and recommendations. — On or before the first day of November of each year next preceding the first session of each legislature the commission shall submit a report to the governor, including recommendations based upon its studies. [1970, ch. 69, § 6, p. 165.]

Compiler's notes. Section 7 of S.L. 1970, ch. 69 read: "The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act." Section 3 of S.L. 1970, ch. 69 declared an emergency. Approved February 29, 1970.

CHAPTER 61

STATE EMPLOYEE INCENTIVE AWARDS

SECTION.	SECTION.
67-6101. Legislative intent.	67-6105. Awards.
67-6102. Awards committee — Creation — Membership.	67-6106. Participation — Limitations.
67-6103. Meetings.	67-6107. Funding.
67-6104. Rules and regulations.	67-6108. [Repealed.]

67-6101. Legislative intent. — It is hereby declared to be the policy of the state of Idaho to further encourage state employees to develop new concepts for the improvement of efficiency and economy in state government through certificates of merit or monetary awards for suggestions, concepts and ideas that will directly conserve man-hours, supplies, equipment, operating costs or that contribute directly to carrying out the mission of a department of state government. [I.C., § 67-6101, as added by 1976, ch. 2, § 1, p. 9.]

Compiler's notes. Former §§ 67-6101 — 67-6107 which comprised S.L. 1971, ch. 75, §§ 1-6, p. 170, was repealed by S.L. 1974, ch. 22, § 1.

67-6102. Awards committee — Creation — Membership. — There is hereby created in the office of the governor the state employees incentive award committee. The committee shall consist of the governor, or his representative, who shall serve as chairman, the legislative auditor, and three (3) private citizens who represent business, management or industry. The three (3) citizen members shall be appointed by the governor to serve two (2) year terms. [I.C., § 67-6102, as added by 1976, ch. 2, § 1, p. 9.]

Compiler's notes. Former § 67-6102 was repealed, see compiler's notes, § 67-6101.

67-6103. Meetings. — The committee shall meet twice annually, or at such other times as the chairman may determine, in the office of the governor. At such time, the committee shall consider nominations submitted to the committee by the various directors of the executive agencies. A quorum shall consist of three (3) members. All committee meetings shall be open to the public. [I.C., § 67-6103, as added by 1976, ch. 2, § 1, p. 9.]

Compiler's notes. Former § 67-6103 was repealed, see compiler's notes, § 67-6101.

67-6104. Rules and regulations. — It shall be the duty of the committee to administer the provisions of this act and to promulgate rules and regulations for the successful implementation of this act. Such rules and regulations shall include, but are not limited to, the following:

- (1) the establishment of a procedure for submission, screening and eligibility of all suggestions, ideas, and concepts;
- (2) the approval of those suggestions which will produce economies or improvements in the operations of an agency;

Rules and regulations promulgated by the committee shall not be subject to the provisions of chapter 52, title 67, Idaho Code. [I.C., § 67-6104, as added by 1976, ch. 2, § 1, p. 9.]

Compiler's notes. Former § 67-6104 was repealed, see compiler's note, § 67-6101.

The words "this act" refer to S.L. 1976, ch. 2 compiled as §§ 67-6101 — 67-6107.

67-6105. Awards. — Upon approval of a concept, idea, or suggestion, submitted to the committee pursuant to adopted rules or regulations, the committee is hereby empowered to grant monetary awards or certificates of merit for the submission of ideas by state employees which would:

- (1) implement a cost savings,
- (2) increase efficiency,
- (3) better utilize resources.

The committee is not bound at any time to make an award, nor is a minimum number of awards to be made to each state department. The amount of the award shall be dependent upon the value and benefit of the suggestion as determined by the committee. The committee may request outside expertise in the judging of awards and may request additional information from the applicant or the department, as to the design, function, and applicability of the suggestion.

A monetary award or a certificate of merit made by the committee shall entitle the state of Idaho to full rights to utilize the suggestion; however, it shall not constitute a purchase of any property right of the employee in the idea or suggestion. [I.C., § 67-6105, as added by 1976, ch. 2, § 1, p. 9.]

Compiler's note repealed, see com

67-6106. P Idaho are eligi to the terms o. (1) for sugg employees, or c the suggestion (2) for sugge or planning, assignments: (3) which sh added by 1976.

Compiler's note repealed, see comp:

67-6107. Fu accompanying committee, stat amount permiss [I.C., § 67-6107

Compiler's note: repealed, see comp:

67-6108. Exerr

Compiler's note comprised S.L. 1971; by S.L. 1974, ch. 22.

SECTION.

- 67-6201. Purpose.
- 67-6202. Idaho hou
- 67-6203. Commissi
Appoi
- 67-6204. Vice chair
and
Appoi
- 67-6205. Definition
- 67-6206. Powers of
- 67-6207. Managem
houstr
- 1976
1976.
- 67-6207A. Additiona
- 67-6207B. Mortgage
1976.

Compiler's notes. Former § 67-6195 was repealed, see compiler's notes, § 67-6101.

67-6106. Participation — Limitations. — Employees of the state of Idaho are eligible to participate in the suggestion awards program, pursuant to the terms of this act; however, no award shall be made:

(1) for suggestions which represent a part of the normal duties of the employees, or over which the employee has the sole authority to implement the suggestion;

(2) for suggestions made by employees whose normal duties are research or planning, unless the subject matter is unrelated to normal work assignments;

(3) which shall exceed three hundred dollars (\$300). (I.C., § 67-6106, as added by 1976, ch. 2, § 1, p. 9.)

Compiler's notes. Former § 67-6106 was repealed, see compiler's notes, § 67-6101.

For the words "this act," see compiler's notes, § 67-6104.

67-6107. Funding. — The director shall submit in writing a statement, accompanying each proposal, in such form as may be required by the committee, stating that the expense of any award up to the maximum amount permitted, shall be borne by the department suggesting the award. (I.C., § 67-6107, as added by 1976, ch. 2, § 1, p. 9.)

Compiler's notes. Former § 67-6107 was repealed, see compiler's notes, § 67-6101.

67-6108. Exemption from administrative procedure law. [Repealed.]

Compiler's notes. This section which comprised S.L. 1971, ch. 75, § 8 was repealed by S.L. 1974, ch. 22, § 1.

CHAPTER 62

IDAHO HOUSING AGENCY

SECTION.		SECTION.	
67-6201.	Purpose.	67-6207C.	Housing sponsorship.
67-6202.	Idaho housing agency created.	67-6207D.	Periodic examination of income of persons residing in housing projects.
67-6203.	Commissioners — Chairman — Appointments.	67-6208.	Tax exempt status.
67-6204.	Vice chairman, executive director and other personnel — Appointments — Quorum.	67-6209.	Housing projects subjected to ordinances and regulations.
67-6205.	Definitions.	67-6210.	Power to issue bonds.
67-6206.	Powers of agency.	67-6211.	Additional definitions and capital reserve fund procedures.
67-6207.	Management and operation of housing projects — Priority of applications — Limited profit sponsors.	67-6212.	Refunding of obligations.
67-6207A.	Additional powers.	67-6213.	Deposit of funds.
67-6207B.	Mortgage loans — Rules and regulations — Purchase.	67-6214.	Rights of bondholder.
		67-6215.	Rights not to be impaired by state.
		67-6215A.	Remedies of bondholders.

Introduced: 1/19/87
Referred: State Affairs and
Finance

1 IN THE HOUSE
2 HOUSE BILL NO. 14
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 a state employee incentive award
7 system."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 39.51 is amended by adding new sections to read:
10 ARTICLE 2. INCENTIVE AWARD PROGRAM.
11 Sec. 39.51.110. INCENTIVE AWARDS. The commissioner of a depart-
12 ment or the executive head of an agency other than a department may
13 pay an employee a cash award and incur necessary expense for the
14 honorary recognition of the employee if the employee has
15 (1) contributed to the efficiency, economy, or other im-
16 provement of state operations by suggestion, invention, superior
17 accomplishment, or other personal effort; or
18 (2) performed a special act or service in the public inter-
19 est in connection with or related to the employee's official employ-
20 ment.
21 Sec. 39.51.120. AMOUNT OF AWARDS. (a) Except as provided in
22 (b) of this section, a cash award under AS 39.51.110 - 39.51.200 may
23 not exceed \$10,000.
24 (b) When the commissioner of a department or the executive head
25 of an agency certifies to the Personnel Board that the suggestion,
26 invention, superior accomplishment, or other meritorious effort for
27 which the award is proposed is highly exceptional and unusually out-
28 standing, the board may approve a cash award in excess of \$10,000 but
29 not in excess of \$25,000.

1 (c) A cash award under AS 39.51.110 - 39.51.200 is in addition
2 to the regular pay of the recipient. Acceptance of a cash award
3 constitutes an agreement that the use by the state of an idea, method,
4 or device for which the award is made does not form the basis of a
5 further claim of any nature against the state by the employee.

6 (d) A department or agency may pay a cash award and the expense
7 for the honorary recognition of an employee from the appropriation
8 available to the activity primarily benefiting or the activities
9 benefiting from the idea, method, or device that forms the basis for
10 the award. The commissioner of the department or head of the agency
11 concerned determines the amount to be paid by each activity for an
12 award.

13 Sec. 39.51.130. AWARDS FOR COST SAVINGS DISCLOSURES. (a) A
14 department or agency may pay a cash award to an employee whose disclo-
15 sure of fraud, waste, or mismanagement to the official designated
16 under (b) of this section has resulted in cost savings for the depart-
17 ment or agency. The amount of the award may not exceed the lesser of

18 (1) \$10,000; or

19 (2) an amount equal to one percent of the department's or
20 agency's cost savings that the official designated under (b) of this
21 section determines to be the total savings attributable to the
22 employee's disclosure; in determining the amount, the official may
23 consider agency cost savings projected for subsequent fiscal years
24 that will be attributable to the disclosure.

25 (b) The commissioner of a department or the executive head of an
26 agency shall designate an official who has authority to make deter-
27 minations and grant awards under this section.

28 Sec. 39.51.130. AWARDS TO FORMER EMPLOYEES. A department or
29 agency may pay or grant an award under AS 39.51.110 - 39.51.200

1 notwithstanding the death or separation from state service of the em-
2 ployee concerned if the suggestion, invention, superior accomplish-
3 ment, other personal effort, or special act or service in the public
4 interest for which the award is proposed was made or performed while
5 the employee was in the employ of the state.

6 Sec. 39.51.140. REGULATIONS. The Personnel Board may adopt
7 regulations under AS 44.62 (Administrative Procedure Act) to implement
8 the employee incentive award program.

9 Sec. 39.51.200. DEFINITIONS. In AS 39.51.110 - 39.51.200,

10 (1) "employee" includes a permanent, probationary, season-
11 al, nonpermanent, temporary, or provisional employee of the state
12 whether in the classified, partially exempt, or exempt service;

13 (2) "Personnel Board" means the Personnel Board established
14 in AS 39.25.060.

HB

16

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/4/87

FURTHER REFERRALS:

DATE: 3/5/87

The Finance Committee has considered HB 16

"An Act relating to the levy and collection of fees for the use of state park facilities; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 16 (Fin.) 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 _____
- zero with analysis

SIGNING DO PASS:

ADAMS Albert P. Adams

POWELL Pat Powell

LARSON Ronald L. Larson

SWACK-HAMMER [Signature]

BOYER Mark Boyer

FRANK [Signature]

WALLIS F. Kay Wallis

BROWN Tan Brown

DAVIS Mike Davis

SIGNING OTHER RECOMMENDATIONS:

RIEGER [Signature] No Recommendation

GILL [Signature]

Albert P. Adams
Chairman's signature

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

Bill Version: CSHB 16 (Finance)
Publish Date: _____

REQUEST: _____
Revision Date: March 4, 1987
Title: Fees for use of state park facilities
Sponsor: House Resources
Requestor: House Finance

Agency Affected: Natural Resources
BRU: Park Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		25	30	34	34	34
TRAVEL		18	8	3	3	3
CONTRACTUAL		20	15	10	10	10
SUPPLIES		3	2	2	2	2
EQUIPMENT		27	20	10	10	10
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		96	75	59	59	59

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

REVENUE		30	170	334	490	550
---------	--	----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND		96	75	59	59	59
FEDERAL FUNDS						
OTHER						
TOTAL		96	75	59	59	59

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1	2	1	1	1

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Neil Johannsen Phone: 465-2400
Division: Parks and Outdoor Recreation Date: 2-3-87
Approved by Commissioner: C. Williams for JMB Date: 3/5/87
Agency: Natural Resources

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

RECEIVED
MAR 05 1987

Fiscal Note Information
for CSHB 16 (Finance)

Costs
FY88

personnel services \$28.0

- *increase existing Natural Res. Manager I position in charge of concessions and fees from 6 months to 12 months \$25.8
- *hire one seasonal Alaska Conservation Corps staff person or support a volunteer college intern through a \$15/day stipend cost is \$2.2

Travel \$18.0

- *statewide regulations hearings to adopt fee structure \$8.0
- *meetings & hearings on proposed concessions \$5.0
- *field inspections of concessions \$5.0

Contractual \$20.0

- *establish campground fee registration and payment systems at 20 campgrounds. \$1,000 per campground as follows:
 - signs 200
 - Iron Ranger fee device \$350
 - lock device \$ 50
 - labor to install \$400

Supplies and Materials \$3.0

- *purchase of printed payment envelopes \$2.5
- *accounting and reporting forms \$0.5

Equipment \$27.0

- *install fee box device in park ranger vehicles to transport fees to park offices. Prevents tampering with funds
225 vehicles at \$680 per vehicle \$17.0
- *Safes and lock boxes for 10 area offices. Estimated cost is \$1.0 per office. \$10.0

Revenues
FY88

Fees:

- Commercial Use Permits \$6.0 (120 at \$50 each)
- Public Cabins \$5.0 (1986 level of revenues)

Concessions (Franchise Fee Payments)

- Potter Section House \$10.5 (3% of \$350.0 gross receipts)
- Rika's Roadhouse \$8.5 (3% of \$280.0 gross receipts)

estimated total revenue for FY88 is \$30.0

Future Revenues (campground fees are added and additional concessions and commercial use permits are established)

FY 89	\$170	FY 91	\$490
FY 90	\$334	FY 92	\$550

Original sponsors: Navarre, Koponen,
Swackhammer, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 16 (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 relating to the levy and collection of fees
7 for the use of state park system facilities; relating
8 to contracts for services and facilities in the state
9 park system; and providing for an effective date."

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

11 * Section 1. AS 47.21 is amended by adding new sections to read:

12 Sec. 41.21.026. FEES FOR THE USE OF STATE PARK SYSTEM FACILI-
13 TIES. (a) The department may not, either directly or through another
14 person, charge or collect a fee for an ordinary use of a park unit or
15 the use of a restroom in a park unit.

16 (b) In addition to the prohibition in (a) of this section, the
17 department may not establish and collect fees for the use of a park
18 unit, except for

- 19 (1) rental of public use cabins or other overnight lodg-
20 ings;
- 21 (2) overnight use of a developed campsite;
- 22 (3) special park use permits;
- 23 (4) noncompetitive and nonexclusive commercial use permits;
- 24 (5) use of a sewage holding tank dump station;
- 25 (6) guided tours of historic sites; and
- 26 (7) use of an improved boat ramp in a park facility
27 developed principally for boat launching.

28 (c) The department shall establish the fees for uses under (b)
29 of this section by regulation. Before setting the fees, the

1 department shall consider at public hearings

2 (1) the cost to the state of operating the facility or
3 managing the activity;

4 (2) the normal fees charged for similar facilities or
5 activities by governmental and nongovernmental entities;

6 (3) the cost of administering a fee collection program for
7 the facility or activity; and

8 (4) the public interest.

9 (d) In this section, "developed campsite" means a campsite
10 having access to the following public facilities:

11 (1) restrooms;

12 (2) a picnic table;

13 (3) an outdoor cooking facility; and

14 (4) an approved water source.

15 Sec. 41.21.027. MAINTENANCE AND COLLECTION CONTRACTS IN THE
16 STATE PARK SYSTEM. (a) The state may contract under AS 36.30 (State
17 Procurement Code) for

18 (1) the collection of fees charged for uses under AS 41.-
19 21.026(b); and

20 (2) park unit maintenance activities; "park unit mainte-
21 nance activities" means

22 (A) refuse collection;

23 (B) janitorial maintenance of facilities;

24 (C) litter pickup;

25 (D) painting;

26 (E) fireplace cleaning;

27 (F) sewage pumping;

28 (G) minor repair and replacement of facilities;

29 (H) snowplowing and road maintenance;

- 1 (I) brushing trails, picnic areas, and campsites;
2 (J) other normal park unit maintenance activities.

3 (b) The state may combine in a single contract the services
4 listed in (a)(1) and (2) of this section.

5 (c) A contract under this section is not subject to AS 41.21.-
6 028.

7 Sec. 41.21.028. CONCESSION CONTRACTS IN THE STATE PARK SYSTEM.

8 (a) The state may not enter into a concession contract under AS 36 to
9 provide services or to operate or construct facilities in a park unit
10 unless the commissioner finds that the proposed concession contract

11 (1) will implement the purposes of the park unit and is
12 authorized by the park management plan, if any, that applies to the
13 park unit;

14 (2) will enhance public use and enjoyment of the park unit
15 while maintaining a high quality environment and the opportunity for
16 high quality recreational experiences;

17 (3) will provide services or facilities that are not feasi-
18 ble or affordable for the state to provide directly;

19 (4) will not create substantial adverse environmental
20 effects;

21 (5) is based on a need or desire of the public;

22 (6) recognizes and accommodates, at no cost, ordinary uses
23 in a park unit;

24 (7) requires the contractor to hire residents of the state,
25 to the extent available and qualified, when hiring persons to work in
26 the park under the contract;

27 (8) provides the state with a fair and equitable portion,
28 in money or services, of the contractor's receipts from the provision
29 of the service or the operation of the facility;

1 (9) provides that the department retains control over the
2 level of fees and the design and appearance of any facility to be con-
3 structed;

4 (10) requires the contractor to accommodate visitors with
5 special circumstances, including handicapped persons, senior citizens,
6 and school children;

7 (11) provides that during the term of the contract the
8 commissioner shall regularly review and inspect the

(A) operation of the facility; and

(B) contractor's provision of service to the public;

and

9 (12) provides that the contract shall be terminated if the
10 contractor fails to protect park values and resources or fails to
11 maintain a high-quality environment and recreation experience.

(b) Before bids or proposals are sought or contract negotiations
12 begun under AS 36.30 for a concession contract under (a) of this
13 section, the commissioner shall

(1) make a preliminary inquiry at the local level to
14 identify community concerns;

(2) if it is appropriate to proceed further, make a pre-
15 liminary decision that includes the findings required by (a) of this
16 section and

(A) an assessment of existing visitor uses that may be
17 affected by the activities of the contractor;

(B) an assessment of the potential conflicts or sig-
18 nificant effects on park wildlife, water, scenic values, or other
19 resources;

(C) an identification of the types of services or
20 goods that the contractor is to provide;

1 (D) the terms and conditions of the contract;

2 (E) a determination of whether the contract activity
3 would be more appropriately located on land outside of the park
4 or on private land within the park; and

5 (F) the views and comments of the park advisory board,
6 when one exists, for the park unit in which the activity is being
7 considered;

8 (3) after making a preliminary decision under (2) of this
9 subsection,

10 (A) seek public comment on the preliminary decision
11 through reasonable public notice and, if facilities may be built
12 under the concession contract, conduct public hearings;

13 (B) after considering the public comment obtained
14 under this subsection, issue a final decision on whether or not
15 the state will proceed into a concession contract award process.

16 (c) The commissioner shall provide for public review and comment
17 before a concession contract under this section is renewed or ex-
18 tended.

19 (d) By the 15th day of each first regular session of the legis-
20 lature, the commissioner shall make available to the legislature a
21 report on the provision of services or operation of facilities under
22 concession contracts under this section during the previous two fiscal
23 years, including

24 (1) contract activities;

25 (2) new or expanded contracts whose estimated or actual
26 gross receipts exceed \$25,000; and

27 (3) violations of contract standards.

28 (e) The commissioner may adopt regulations to implement this
29 section.

1 (f) The commissioner may not enter into a concession contract
2 for the Alaska Chilkat Bald Eagle Preserve.

3 (g) In this section

4 (1) "concession contract" does not include a contract under
5 AS 41.21.027;

6 (2) "facilities" includes campgrounds, boat launches,
7 lodges, food service operations, and gift shops.

8 Sec. 41.21.029. DEFINITIONS. (a) In AS 41.21.026 - 41.21.029

9 (1) "ordinary use" means a use that is not generally asso-
10 ciated with developed facilities, including fishing, hunting, walking,
11 swimming in a natural body of water, picnicking, or automobile parking
12 associated with another ordinary use;

13 (2) "park unit" means a unit of the state park system.

* Sec. 2. AS 41.21.030 is amended by adding a new subsection to read:

14 (b) The commissioner of administration shall separately account
15 for fees and other money collected under AS 41.21.026 - 41.21.029 and
16 deposited under (a) of this section. The annual estimated balance in
17 the account may be used by the legislature to make appropriations to
18 the department to carry out the purposes of this chapter.

* Sec. 3. AS 28.10.411(e) and AS 41.35.045 are repealed.

* Sec. 4. This Act takes effect July 1, 1987.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: House Finance Committee

FROM: Representative Kay Brown

DATE: March 5, 1987

SUBJ: Draft CS HB 16 (Finance)
Park User Fees and Concessions

RECOMMENDATION:

- ① proposed C.S.
(attach #5)
- ② consider amendment
presented to Sub
Committee,
- ③ Fiscal note
(attach #6)

Please find attached a copy of a draft CS HB 16 (Finance) prepared by the subcommittee for your consideration.

To summarize briefly, the bill as originally introduced provided authority to the Department of Natural Resources to levy and collect fees for the use of park facilities. During the Resources Committee review of the bill the Department requested that additional language be added to the bill to provide concession contracting authority. Language to this effect was included in the bill and referred to the Finance Committee.

During a Finance subcommittee work session on the Resources CS (see Attachment 1, work session agenda), substantial concerns were raised by members of the Finance Committee regarding the potential adverse impacts of concessions in State parks, especially in light of the Lower 48 experience with commercial developments in federal and state parks.

While there appears to be universal support for giving the Department clear authority to engage in simple fee collection, views on concession contracting in State parks are widely divergent. Some of the major issues are outlined in Attachment 2. In an attempt to clarify the status of the Department's

existing authority, the subcommittee requested an Attorney General's opinion, which concluded that the Department already has broad statutory authority to engage in concession contracting (Attachment 3). Thus, the focus and emphasis of the subcommittee's effort has been to develop statutory language to guide the Department when undertaking concession contracting.

As indicated by the sectional analysis (Attachment 4), the draft Finance CS provides the Department of Natural Resources three basic mechanisms to pursue fee collections and provide additional services through concession contracting:

1) Sec. 41.21.026 allows the Department to collect fees for certain activities directly;

2) Sec. 41.21.027 allows the Department to engage in limited contracting for specific maintenance and fee collection purposes; and

3) Sec. 41.21.028 allows the Department to concession contract the operation of services and construction of facilities provided the Commissioner finds that the concessions will serve the public interest.

The subcommittee has made a substantial effort to accommodate a spectrum of opinion and concern on this bill. I believe that the proposal now before you will accomplish the desired goals of providing the Department of Natural Resources with clear authority to levy and collect fees and engage in concession contracting while also prescribing specific procedures to assure appropriate public involvement in the decision-making process.

Attachments

AGENDA

February 24, 1987 5:00 pm
House Finance Committee Room
Work Session: House Bill 16 - Park User Fees and Concessions

I. Introduction: Representative Brown

II. Al Meiners/DNR-Parks

A. Present DNR Authority and Practices

- 1) fees collected and current restraints
 - 2) contracts/concessions and applicable constraints
 - 3) examples of fee programs/concessions/contracting examples (current):
 - public use cabins
 - Potter Section House
 - Ak Natural History Assoc (non-profit)
- examples (in progress):
- Rika's Road House
 - helicopter flight seeing in Chugach St Pk
 - Outdoor Education Camp in Chena St Rec Area

B. The need for new Legislation

III. Evolution of HB 16 to CS HB 16: Representative Cotten (Ned Farquhar)

IV. Discussion of Policy Questions/Issues

Major questions to be addressed include:

1. What are the advantages/disadvantages of concessions in State Parks?

2. What are the distinctions to be made between "contracting" and granting "concessions"?

3. The concession language in CS HB 16 does not grant any fundamentally new authority to grant concessions; the bill does put explicit constraints on concession practices ("side boards"). Deletion of the concession language in CS HB 16 would still leave DNR with broad authority to pursue concessions but without any explicit guidance on issues relating to compatibility with park values, etc.

4. How should "ordinary uses" such as swimming, fishing, picnicking, etc. be treated?

5. Should HB 16 be limited to fees only as originally introduced? Should this bill, or another, address the issues surrounding concessions?

QUESTIONS TO CONSIDER ON HB 16

by Rep. Kay Brown

1. Is concession contracting in State Parks a good idea?

Considerations/Pro:

- provides DNR flexibility and means to do things otherwise not possible with budget cuts
- allows DNR to keep facilities open through private financing
- provides opportunity for certain services otherwise inappropriate for state to provide (such as food and lodging)
- clarifies existing DNR authority

Considerations/Con:

- contractors may gain too much political influence over park management decisions
- park objectives may be compromised by profit motives
- commercialization of state parks may occur

Proposed CS (Finance):

- provides concession contracting authority with safeguards

2. Should private capital be used to construct facilities in public parks (as distinguished from provision of services)?

Considerations/Pro:

- facilities can be constructed (eg, boat launch, x-country/down hill ski resort, lodge)
- tourism attractions can be developed

Considerations/Con:

- commercialization of parks
- creation of strong financial and/or political interests in parks

Proposed CS (Finance):

- allows construction of facilities but requires extensive public involvement

Is in the proposed CS necessary?

Pros:
- guards against bad development experienced elsewhere
(e.g., Yosemite, Yellowstone)
- ensures public involvement

Cons/Considerations/Con:

- may defer or slow down concession development
- increases state administrative costs

Proposed CS (Finance): expands public review process before concession contracts are granted or facilities are constructed.

CORRECTION

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

3. Is all this public process in the proposed CS necessary?

Considerations/Pro:

- safeguards against bad development experienced elsewhere (eg, Yosemite, Yellowstone)
- ensures public involvement

Considerations/Con:

- may defer or slow down concession development
- increases state administrative costs

Proposed CS (Finance): expands public review process before concession contracts are granted or facilities are constructed.

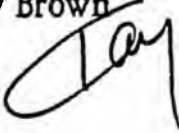
Kay Brown

Alaska State Legislature House of Representatives

MEMORANDUM

TO: Representative Mike Navarre

FROM: Representative Kay Brown

DATE: February 23, 1987 

SUBJ: HB 16 - Park User Fees and Concessions
and Current Statutory Authority

During the discussions on House Bill 16 there has been some confusion regarding *current* statutory authority for DNR to charge fees and contract out concessions and whether this bill would have the effect of adding concession contracting to present authorities.

In order to clarify current law and better understand the implications of House Bill 16, I have asked for an Attorney General's Opinion on this issue. As indicated by the opinion, DNR already has statutory authority to concession contract. The authority to simply collect fees is also provided under current laws but conditioned by certain provisions.

Please find a copy of the opinion attached.

attachment

cc: House Finance Committee members
Representative Koponen
Representative Cotten

MEMORANDUM

State of Alaska

TO: House Finance Committee
Attn: Eric Meyers

DATE: February 23, 1987

FILE NO:

TELEPHONE NO: 276-3550

THRU: Grace Berg Schaible
Attorney General

SUBJECT: CSHB No. 16


FROM: Michael J. Frank
Assistant Attorney General

This memorandum responds to your request for an outline of the existing authority the Department of Natural Resources, through the Division of Parks and Outdoor Recreation, ^{1/} has to charge fees for use of park facilities and to contract for "concessions and rentals".

I. CONTRACTS FOR THE OPERATION OF "CONCESSIONS AND RENTALS".

Under AS 41.21.020 DNR "shall"

- (4) control, develop and maintain state parks and recreational areas;
- (5) provide for the care, control, supervision, development, . . . and maintenance of public recreational land, and make necessary arrangements, contracts or commitments for the improvement and development of land acquired under AS 41.21.010 - 41.21.040. (Emphasis supplied.)

The foregoing statute was passed in 1959 (ch. 158 SLA 1959), as was AS 41.21.030. The latter statute reads in full:

All money received from the operation of parks and recreational facilities, including money from concessions, rentals, or donations shall be deposited in the general fund of the state. (Emphasis supplied.)

1/ AS 41.21.040, passed as part of ch. 158 SLA 1959, gave the DNR commissioner authority to create a separate division in DNR to "perform functions relative to parks and recreational facilities specified in AS 41.21.010 - 41.21.040. . . ."

AS 41.21.020 and 41.21.030 have provided the legal authority to DNR to adopt the existing concession contract regulations (see attached) at 11 AAC 14.200 et seq. While the two statutes are certainly are not as clear in granting contracting authority as they might be, it seems obvious from them that the 1959 Legislature anticipated^{2/} that there might be contractors operating concessions or rentals 2/ in State parks.

For your information I am also enclosing existing National Park Service "concession" contracting laws, 16 U.S.C. §§ 20 et seq., and regulations, 36 C.F.R. Part 51.

II. FEES.

Currently DNR only has express statutory authority to "establish and collect fees for guided tours through historical sites". AS 41.35.045 (1986 Michie Suppl.).

Prior to 1978, DNR did charge fees for entry into and use of a state park or campground. DNR did so via 11 AAC 12.310, a regulation which allowed the division of parks' director to set fees for use of a state park facility and which established an annual \$10.00 vehicle entrance fee to state parks.

In 1978, however, the Legislature nullified this regulation, in effect, by passing AS 28.10.411, governing motor vehicle registration (license tag) fees. Subsection (e) of AS 28.10.411 reads:

Notwithstanding any other provision of law, fees paid for registering a vehicle . . . shall include all fees required for entry and use of a state park or campground.

Since the "nullification" was in a motor vehicle registration statute, it's not exactly clear how broad the 1978 Legislature

2/ Neither the word "concessions" nor "rentals" is defined in AS 41.21. At common law "concession" was a term "ordinarily applied to the grant of specific privileges by a government". Black's Law Dictionary 361 (4th Ed. 1968). In the context of especially protected lands -- like parks -- the use of the word "concession" is very apt in that it implies that being allowed to operate a commercial venture on such lands is an extraordinary privilege to grant someone.

House Finance Committee
Attn: Eric Meyers

February 23, 1987
Page 3

intended AS 28.10.411(e) to be. If, for example, a backpacker had no vehicle registered in Alaska and walked into and used a state park campground, could the backpacker legally be charged a campground user fee?

In any event, the 1986 Legislature resolved any ambiguities, perhaps unintentionally, with the passage of AS 37.10.050(a). That statute prohibits a state agency from charging "for the provision of state services unless the charge is authorized by statute". Although it's not exactly clear what "state services" includes, it seems apparent that entrance fees at campgrounds and other comparable direct levies on park visitors are prohibited. A concessioner's sale of natural history books might, however, not be.

III. CONCLUSION

From an attorney-to-client standpoint, the existing statutes are in a sufficient muddle to make it difficult for our office to give unambiguous legal advice to DNR when contracting and fee questions arise. Thus, if the Committee should desire further help with the drafting of CSHB 16, our office would be eager to assist it.

MJF:amh

cc: Ron Lorensen, Esq.
Art Peterson, Esq.

of any default on the part of the contractor in observance or performance of any of the conditions or covenants of the contract is not a waiver of the forfeiture provision or any other provision of the contract. (Eff. 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

ARTICLE 2. CONCESSION CONTRACTS

Section

- 200. Concession contracts
- 210. Concession rental
- 220. Cancellation by the state
- 230. Improvements by concessionaire
- 240. Chattels and personal property
- 250. Removal of personal property
- 260. Renewal of concession contracts

11 AAC 14.200. CONCESSION CONTRACTS.

A concession contract may be obtained under the procedure, and is subject to the conditions, in 11 AAC 14.010 through 11 AAC 14.130. The director may enter into a contract with a qualified person to construct, maintain, or operate a concession in a state park. A fee schedule established in a concession contract may be subject to annual review and approval by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

11 AAC 14.210. CONCESSION RENTAL. The rental charged by the division shall be one of the following:

- (1) percentage of the annual gross receipts;
- (2) guaranteed annual minimum or percentage of the gross, whichever may be the greater;
- (3) annual rental; or
- (4) a combination of the above. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.220. CANCELLATION BY THE STATE. If the concession is terminated or forfeited during its term, the state shall pay the concessionaire the value of his interest in fixed improvements unless the termination is due to

concessionaire default or request. The value of the interest is calculated by the straight-line depreciation method less any amount due the state at the time of contract termination. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.230. IMPROVEMENTS BY CONCESSIONAIRE. The concession contract may provide for the construction of fixed improvements or additions to real property. Each improvement or addition to real property shall become the property of the state without cost upon expiration of the contract. The cost of an improvement shall be the principal determinant of the length of the concession contract in order to insure the concessionaire a reasonable return on the original investment in the improvement during the term of the contract. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.240. CHATTELS AND PERSONAL PROPERTY. The concessionaire shall remove chattels and personal property within 30 days of the notification to vacate. If the personal property is not removed within the 30 days the director may forfeit the property. (Eff. 1/13/73, Reg. 44)

Authority: AS 41.21.020
AS 41.21.040

11 AAC 14.250. REMOVAL OF PERSONAL PROPERTY. Nothing in these regulations may be construed to deny the concessionaire the right to sell, remove, or otherwise dispose of any personal property used in the conduct of the concession granted under these regulations. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

11 AAC 14.260. RENEWAL OF CONCESSION CONTRACTS. A concession contract for a term of less than 10 years may contain a clause granting the concessionaire the option to renew the contract for a period of time, not to exceed the original term of the contract. (Eff. 8/1/68, Reg. 27; am 1-13-73 Reg. 44)

Authority: AS 41.21.020

ARTICLE 3. GENERAL PROVISIONS

Section 300. Definitions

11 AAC 14.300. **DEFINITIONS.** In this chapter

(1) "director" means the director of the division of parks, Department of Natural Resources or his authorized agent;

(2) "division" means the division of parks within the Department of Natural Resources;

(3) "state park land or water facilities" means all lands and waters dedicated as public recreation lands and waters or facilities constructed or operated in conjunction with state parks and waters for the purpose of augmenting recreational opportunities. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.21.020

CHAPTER 15. TRAILS AND FOOTPATHS GRANT PROGRAM

Article

- 1. Jurisdiction and Procedure
- 2. General Provisions

ARTICLE 1. JURISDICTION AND PROCEDURE

Section

- 10. Jurisdiction
- 20. Qualification
- 30. Application
- 40. Allocation of funds
- 50. Project agreement

11 AAC 15.010. **JURISDICTION.** The division of parks will administer the trails and footpaths grant program established by AS 41.20.355. (Eff. 3/12/76, Reg. 57)

Authority: AS 41.21.020
AS 41.21.040
AS 41.21.864

11 AAC 15.020. **QUALIFICATION.** Applicants eligible under AS 41.21.864 may establish qualification for grants under this program by adopting a comprehensive trail plan that includes

(1) evidence of the applicant's legal authority to participate in the grant program and to operate and maintain recreation facilities;

(2) a summary of all trails needed during the coming five-year period, a forecast of all funding needs, and a ranking of projects described in the order of the applicant's priorities;

(3) a five-year schedule of trail acquisition, development, and maintenance, which reflects priorities based on need and considers the extent of funding available under other federal, state, and local aid programs and donations of rights-of-way, easements, and volunteer labor;

(4) evidence of citizen input in the preparation of the applicant's comprehensive trail plan;

(5) evidence of coordination between this plan and the long-range program for local service

Cross References

Administration of real estate acquired by United States in payment of debts arising under internal revenue laws, see section 7506 of Title 26, Internal Revenue Code.
 Distraint on real estate, see section 6331 et seq. of Title 26.
 Purchase of lands sold on execution by United States, see section 3715 of Title 31, Money and Finance.

Notes of Decisions

Property transferred for payment of debts
 Sale and disposal of transferred property 2

1. Property transferred for payment of debts

There can be no doubt that this section regulating the duties of former Solicitor had a reference to existing laws in some of the states, which authorize the debtor to set off his real estate on execution, and in other cases where he surrenders all his property to the United States on which he is released, but all the provisions are not limited to these cases and some of them are general and apply to cases of "trusts created for the benefit of the United States in payment of debts due them". U.S. v. Lane, C.C.Ind.1844, 3 McLean, 365, Fed.Cas. No. 15,559.

2. Sale and disposal of transferred property

The General Counsel [formerly the Solicitor of the Treasury] by virtue of this section and former section 302 of this title, had charge of, and, with the approval of the Secretary of the Treasury, power to rent or sell, lands acquired in satisfaction of judgments on bonds of Internal revenue collectors. 1878, 16 Op.Atty.Gen. 144.

There is no imaginable reason why a trustee having power to sell lands should not have power to sell movables and incorporeal rights, and the policy of this section demands it; at any rate, the General Counsel [formerly the Solicitor of the Treasury] is charged with the administration of said trusts and he may do, therefore, under this section, whatever any other trustee would be allowed to do in a court of chancery. 1842, 4 Op.Atty.Gen. 135.

§ 302. Repealed. Oct. 31, 1951, c. 654, § 1(95), 65 Stat. 705

Historical Note

Section, R.S. § 3749, related to the renting or selling of unproductive lands, or other property of the United States acquired under judicial process or otherwise in the collection of debts. See sections 483 and 484 of this title.

§ 303. Repealed. Aug. 5, 1947, c. 493, § 2, 61 Stat. 774

Historical Note

Section, Acts July 28, 1892, c. 316, 27 Stat. 321; May 29, 1928, c. 901, § 1(29), 45 Stat. 988, related to lease of property not required for public use by Secretary of Army. See section 2667 of Title 10, Armed Forces.

§ 303a. Repealed. Oct. 31, 1951, c. 654, § 1(96), 65 Stat. 705

Historical Note

Section, Act Mar. 3, 1879, c. 182, § 1, 20 Stat. 483, related to leasing, by the Secretary of the Treasury, of unoccupied and unproductive property of the United States under his control, and annual reports to Congress thereon. See sections 483, 484 and 492 of this title. The provision requiring the submission of annual reports had been previously repealed by Act Aug. 7, 1946, c. 770, § 1(49), 60 Stat. 670.

§ 303b. Lease of buildings by Government; money consideration

On and after June 30, 1932, except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for

a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts. (Act June 30, 1932, c. 314, § 321, 47 Stat. 412.)

Cross References

Application of this section to—
 Leases housing and veterans' housing leases by Secretary of Housing and Urban Development, see section 1544 of Title 42, The Public Health and Welfare.
 Lands and improvements administered by National Park Service, privileges, leases, etc., for visitor facilities, see section 20f of Title 16, Conservation.
 Lease of real or personal property by secretaries of military departments, see section 2667 of Title 10, Armed Forces.
 Expenses for maintenance and repairs by grantees notwithstanding this section—
 Park visitors' accommodations, see section 303c of this title.
 Veterans' Administration leases for assistance to medical schools, see section 5070 of Title 38, Veterans' Benefits.
 Veterans' Administration leases in general, see section 5022 of Title 38.
 Union Station Building leases for model intermodal transportation terminal, see section 1653 of Title 49, Transportation.

Library References

United States 6958(1).
 U.S. United States §§ 75 to 79.

Notes of Decisions

Collection of sums for alteration, repair, or improvements
 Concession contract between General Services Administration and Guest Services, Inc., which included clause requiring that percentage of Guest Services, Inc. gross profits be credited to reserve used for replacement of government property, did not violate this section, in light of historically unique nature of agreement. 1985, 64 Op.Comp.Gen. 217.

§ 303c. Maintenance and repair of Government Improvements under concession contracts

Privileges, leases, and permits granted by the Secretary of the Interior for the use of land for the accommodation of park visitors, pursuant to section 20f of Title 16, may provide for the maintenance and repair of Government improvements by the grantee notwithstanding the provisions of section 303b of this title, or any other provision of law.

Pub. L. 87-608, Aug. 24, 1962, 76 Stat. 405.

Library References

United States 6956, 57.
 U.S. United States §§ 72, 74.

§ 304. Disposal of lands acquired by devise

The General Services Administration is authorized to take custody, for disposal as excess property under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C.A. § 471 et seq.], of such lands as have been or may hereafter be acquired by the United States by devise.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2350.

§ 19l. Tax exemptions; contributions toward costs of local government; contributions, gifts, or transfers to or for use of United States

The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of its directors, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of the foregoing or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

Pub.L. 90-209, § 8, Dec. 18, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2356.

§ 19m. Liability of United States

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

Pub.L. 90-209, § 9, Dec. 13, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2350.

§ 19n. Annual reports to Congress

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

Pub.L. 90-209, § 10, Dec. 18, 1967, 81 Stat. 657.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 90-209, see 1967 U.S.Code Cong. and Adm.News, p. 2356.

CONCESSIONS FOR ACCOMMODATIONS, FACILITIES, AND SERVICES IN AREAS ADMINISTERED BY NATIONAL PARK SERVICE

§ 20. Congressional findings and statement of purpose

In furtherance of sections 1 and 2 to 4 of this title, as amended, which directs the Secretary of the Interior to administer national park system areas in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation of park values requires that such public accommodations, facilities, and services as have to be provided within those areas should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that the heavy visitation will not unduly impair these values and so that development of such facilities can best be limited to locations where the least damage to park values will be caused. It is the policy of the Congress that such development shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas.

Pub.L. 89-249, § 1, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

Cross References

Uniform application of sections 20 to 20g of this title to all areas of national park system when not in conflict with specific provisions applicable to an area, see section 1(c)(6) of this title.

Library References

Woods and Forests \Leftrightarrow 8.

U.S. Woods and Forests §§ 11, 12

§ 20a. Authority of Secretary of Interior to encourage concessioners

Subject to the findings and policy stated in section 20 of this title, the Secretary of the Interior shall take such action as may be appropriate to encourage and enable private persons and corporations (hereinafter referred to as "concessioners") to provide and operate facilities and services which he deems desirable for the accommodation of visitors in areas administered by the National Park Service.

Pub.L. 89-249, § 2, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

Notes of Decisions

Bus tours or sightseeing services
 Generally 3
 Certificate of convenience and necessity 4
 Monopoly 5
 Engaging in or soliciting business without permit 6
 Exclusiveness of Secretary's authority 2
 Responsibility for providing facilities and services 1

Five Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist. Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

4. — Certificate of convenience and necessity

Concessionaire under contract with Secretary to conduct bus tours of Capitol Mall could operate without certificate of convenience and necessity from Washington Metropolitan Area Transit Commission. Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

5. — Monopoly

Even if transit system's franchise would protect mass transportation on Capitol Mall from uncertified competition, and even if provision giving exclusive transportation rights protected charter or sightseeing services, it did not follow that system had monopoly over sightseeing on Capitol Mall. Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and did not protect system against competition from concessionaire acting under contract with Secretary. Id.

6. Engaging in or soliciting business without permit

Secretary in promulgating regulation prohibiting engaging in or soliciting business in park areas except in accordance with permit or contract with United States does not exceed statutory authority granted to him. U. S. v. Carter, D.C.Ariz.1972, 339 F.Supp. 1394.

1. Responsibility for providing facilities and services

The Secretary is responsible for maintaining national parks and for providing facilities and services for their public enjoyment through concessionaires or otherwise. Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

2. Exclusiveness of Secretary's authority

Congress, in creating Washington Metropolitan Area Transit Commission, did not disturb exclusivity of control by Secretary over Capitol Mall either by extinguishing entirely his power to contract for transportation services or by burdening his concessionaire with two separate agencies engaged in regulating precisely same aspects of its conduct. Universal Interpretive Shuttle Corp. v. Washington Metropolitan Area Transit Commission, Dist.Col.1968, 89 S.Ct. 351, 393 U.S. 180, 21 L.Ed.2d 331.

3. Bus tours or sightseeing services—Generally

Secretary was free to enter contract with concessionaire to conduct bus tours on Capitol Mall, and is free to exclude traffic from Mall altogether or to exclude any carrier licensed or instructed by Washington Metropolitan Area Transit Commission. Universal Interpre-

§ 20b. Protection of concessioner's investment—Contract terms; compensation for loss of investment

(a) Without limitation of the foregoing, the Secretary may include in contracts for the providing of facilities and services such terms and conditions as, in his judgment, are required to assure the concessioner

of adequate protection against loss of investment in structures, fixtures, improvements, equipment, supplies, and other tangible property provided by him for the purposes of the contract (but not against loss of anticipated profits) resulting from discretionary acts, policies, or decisions of the Secretary occurring after the contract has become effective under which acts, policies, or decisions the concessioner's authority to conduct some or all of his authorized operations under the contract ceases or his structures, fixtures, and improvements, or any of them, are required to be transferred to another party or to be abandoned, removed, or demolished. Such terms and conditions may include an obligation of the United States to compensate the concessioner for loss of investment, as aforesaid.

Profit commensurate with capital invested and obligations assumed

(b) The Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed.

Reasonableness of concessioner's rates and charges

(c) The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the contract, be judged primarily by comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

Determination of franchise fees; reconsideration every five years or oftener

(d) Franchise fees, however stated, shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract or permit involved. Such value is the opportunity for net profit in relation to both gross receipts and capital invested. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates. Appropriate provisions shall be made for reconsideration of franchise fees at least every five years unless the contract is for a lesser period of time.

Pub.L. 89-249, § 3, Oct. 9, 1965, 79 Stat. 969.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20c. New or additional services; preferential rights; operations by single concessioner

The Secretary may authorize the operation of all accommodations, facilities, and services for visitors, or of all such accommodations, facilities, and services of generally similar character, in each area, or portion thereof, administered by the National Park Service by one responsible concessioner and may grant to such concessioner a preferential right to provide such new or additional accommodations, facilities, or services as the Secretary may consider necessary or desirable for the accommodation and convenience of the public. The Secretary may, in his discretion, grant extensions, renewals, or new contracts to present concessioners, other than the concessioner holding a preferential right, for operations substantially similar in character and extent to those authorized by their current contracts or permits.

Pub.L. 89-249, § 4, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20d. Renewal preference for satisfactory performance; extensions; new contracts; public notice

The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits and in the negotiation of new contracts or permits to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary. To this end, the Secretary, at any time in his discretion, may extend or renew a contract or permit, or may grant a new contract or permit to the same concessioner upon the termination or surrender before expiration of a prior contract or permit. Before doing so, however, and before granting extensions, renewals or new contracts pursuant to the last sentence of section 20c of this title, the Secretary shall give reasonable public notice of his intention so to do and shall consider and evaluate all proposals received as a result thereof.

Pub.L. 89-249, § 5, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20e. Concessioner's possessory interest in concession property; limitations; compensation for taking; determination of just compensation

A concessioner who has heretofore acquired or constructed or who hereafter acquires or constructs, pursuant to a contract and with the

approval of the Secretary, any structure, fixture, or improvement upon land owned by the United States within an area administered by the National Park Service shall have a possessory interest therein, which shall consist of all incidents of ownership except legal title, and except as hereinafter provided, which title shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improvement in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the contract and of laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of the contract and may not be taken for public use without just compensation. The said possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties, just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. The provisions of this section shall not apply to concessioners whose current contracts do not include recognition of a possessory interest, unless in a particular case the Secretary determines that equitable considerations warrant recognition of such interest.

Pub.L. 89-249, § 6, Oct. 9, 1965, 79 Stat. 970.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20f. Use of non-monetary consideration in leases of government property

The provisions of section 303b of Title 40, relating to the leasing of buildings and properties of the United States, shall not apply to privileges, leases, permits, and contracts granted by the Secretary of the Interior for the use of lands and improvements thereon, in areas administered by the National Park Service, for the purpose of providing accommodations, facilities, and services for visitors thereto, pursuant to sections 1 and 2 to 4 of this title, as amended, or sections 461 to 467 of this title, as amended.

Pub.L. 89-249, § 7, Oct. 9, 1965, 79 Stat. 971.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1965 U.S.Code Cong. and Adm.News, p. 3189.

§ 20g. Record keeping; audit and examination; access to books and records

Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concession contract have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access to said records and to other books, documents, and papers of the concessioner pertinent to the contract and all the terms and conditions thereof.

The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five (5) calendar years after the close of the business year of each concessioner or sub-concessioner have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the negotiated contract or contracts involved.

Pub.L. 89-249, § 9, Oct. 9, 1965, 79 Stat. 971.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 89-249, see 1065 U.S.Code Cong. and Adm.News, p. 3489.

YELLOWSTONE NATIONAL PARK

§ 21. Establishment

The tract of land in the States of Montana and Wyoming, lying near the headwaters of the Yellowstone River and described as follows, to wit, commencing at the junction of Gardiner's River with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon, or occupy any part of the land thus set apart as a public park, except as provided in section 22 of this title, shall be considered trespassers and removed therefrom.

R.S. § 2474.

Historical Note

Derivation. Act Mar. 1, 1872, c. 24, § 1, 17 Stat. 32.

Cross References

Change of boundaries see section 21a of this title.
Limitation on further extension or establishment of national parks in Wyoming, see section 451a of this title.

Library References

Woods and Forests 68.

C.J.S. Woods and Forests 1271, 12.

§ 21a. Revision of boundaries; contiguous national forests; jurisdiction of forests

The boundary of the Yellowstone National Park is changed so as to read as follows:

Beginning on the present north boundary line of Yellowstone National Park at its intersection with the hydrographic divide immediately north of Pebble Creek, approximately at park boundary monument 29 east; thence following said divide around the head of the drainage of Pebble Creek to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 54 north; thence southerly along said boundary line to its intersection with the hydrographic divide between Soda Butte and Cache Creeks, at a point near park boundary monument 51 north; thence easterly along said hydrographic divide to its intersection with the crest of the Absaroka Range; thence southerly along said crest to its intersection with the main hydrographic divide between Little Lamar River and the North Fork of Shoshone River, passing over Republic and Hoodoo Peaks; thence westerly along said divide passing over Notch Mountain to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 26 north; thence continuing westerly along said divide, now between the headwaters of Lamar River and Jones Creek; headwaters of Sedge, Bear, Cub, and Clear Creeks, and the headwaters of Jones and Crow Creeks, and between Crow Creek and Middle Creek, to its intersection with the present east boundary line of Yellowstone National Park, approximately at park boundary monument 18 north, passing over Pyramid and Cathedral Peaks, Mount Chittenden, and Avalanche Peak, thence southerly along said boundary line to its intersection with the hydrographic divide immediately south of Middle Creek, approximately at park boundary monument 15 north; thence westerly along said divide, now between a southern tributary of Middle Creek, headwaters of Beaverdam, Trappers, and Mountain Creeks, and the headwaters of Canfield and Eagle Creeks, to its intersection with the present east boundary line of Yellowstone National Park, at a point near park boundary monument 5 north, passing over Reservation and Atkins Peaks, Mount Schurz, Mount Humphreys, and Eagle Peak; and

Beginning on the present west boundary line of Yellowstone National Park at its intersection with the left bank of Gallatin River be-

on a map, which shall be available for inspection in the Office of the Site Manager, the locations within these park areas that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would:

(i) Cause injury or damage to park resources; or

(ii) Unreasonably impair the atmosphere of peace and tranquility maintained in commemorative areas; or

(iii) Unreasonably interfere with interpretive, living history, visitor services, or other program activities or with the administrative functions of the National Park Service; or

(iv) Substantially impair the operation of public use facilities or services of concessioners or contractors.

(4) The permit may contain such conditions as are reasonably consistent with protection and use of the park area.

(5) No permit shall be issued for a period in excess of 14 consecutive days: *Provided*, That permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(6) Persons engaged in the sale or distribution of printed matter under this section shall not conduct activities from other than a stand in the locations designated, or hawk or call out from the stand. Each stand shall bear a sign identifying the sponsor, in a form approved by the Unit Manager.

(7) The sale or distribution of printed matter without a permit, or in violation of the terms or conditions of a permit, is prohibited.

(8) Any permit may be revoked under any of those conditions, as listed in paragraph (b)(2) of this section, which constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

(c) Persons engaged in the sale or distribution of printed matter under this section shall not obstruct or impede pedestrians or vehicles, harass park visitors with physical contact misrepresent the purposes or affiliations of those engaged in the sale or distribution, or whether the printed matter is available without cost or donation.

(Sec. 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); 8 D.C. Code 108 and 245 DM (34 FR 13679), as amended)

(44 FR 56936, Oct. 3, 1979, as amended at 45 FR 39682, Oct. 10, 1980)

PART 51—CONCESSION CONTRACTS AND PERMITS

Sec.

51.1 Authority.

51.2 Policy.

51.3 Definitions.

51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

AUTHORITY: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policy Act of 1905, 16 U.S.C. 20 *et seq.*

SOURCE: 44 FR 62895, Nov. 1, 1979, unless otherwise noted.

§ 51.1 Authority.

Concession contracts and permits are awarded by the Director on behalf of the Secretary pursuant to the authority of the Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 3 *et seq.*, particularly, the Concessions Policy Act of 1965, 16 U.S.C. 20 *et seq.* All concession contracts and permits are subject to the requirements of this Part 51.

§ 51.2 Policy.

It is the policy of the Secretary, as mandated by law, to permit conces-

sions in park areas only under carefully controlled safeguards against unregulated and indiscriminate use so that heavy visitation will not unduly impair park values and resources. Concession activities in park areas shall be limited to those that are necessary and appropriate for public use and enjoyment of the park areas in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the park areas.

§ 51.3 Definitions.

The following definitions shall apply to this Part 51:

(a) "Concession Contracts" and "Concession Permits" (or "contracts" and "permits") are agreements between the Director and a concessioner whereby the concessioner agrees to provide certain public accommodations, facilities or services within a park area under the administration of the Director. Concession Permits are generally utilized where the authorized concession operations are not expected to gross more than \$100,000 annually, where the term of the permit is less than five (5) years, where no possessory interest is to be granted to the concessioner, and where no preferential rights to additional services are authorized. In other instances, Concession Contracts are utilized.

(b) "Right of Preference" refers to the right of existing satisfactory concessioners to a preference in the renewal or negotiation of a new contract or permit covering substantially the same accommodations, facilities and services as provided by the concessioner under the terms of its existing contract or permit. Prior to the expiration or termination of a contract or permit a determination shall be made based on annual evaluations, as to whether or not the concessioner is entitled to a preference in the renewal of its contract or permit. An unsatisfactory rating, results in the loss of the right of preference.

(c) "Preferential Right" refers to the right to provide new or additional services and facilities which may be granted to a concessioner by Concession Contract as the Director may con-

sider necessary for the accommodation and convenience of the public.

(d) The term "Director" refers to the Director of the National Park Service or his authorized representatives.

(e) The term "Secretary" refers to the Secretary of the Interior or his authorized representatives.

§ 51.4 Solicitation and award of concession contracts and permits where no right of preference exists.

(a) Where no right of preference exists, the Director shall issue a prospectus soliciting proposals describing the concession operation to be authorized, the material terms and conditions of the proposed Concession Contract or Permit, and the principal factors considered in selection. Public notice of the availability of the concession opportunity shall be published in the FEDERAL REGISTER and/or at least once in local or national newspapers or trade magazines, as appropriate, and will be distributed to interested parties and organizations. The prospectus will be made available upon request to all interested parties and will allow a minimum of sixty days for proposals to be submitted unless a written determination is made that a shorter period is necessary because of exceptional circumstances. All proposals received shall be evaluated by the Director, and the proposal considered best by the Director on an overall basis shall be selected as the basis for negotiation of the Concession Contract or Permit.

(b) The principal factors to be considered in selection of the best proposal shall be (1) the experience and related background of offerors, (2) the offeror's financial capability, and (3) conformance to the terms and conditions of the prospectus in relation to quality of service to the visitor. Secondary factors shall include franchise fee offered and other factors as may be specified.

(c) The Director may solicit from any applicant additional information, or written or verbal clarification of a proposal, and may extend the solicitation period in his discretion. The Director may choose to reject all proposals received at any time and resolicit

or cancel the solicitation altogether in his discretion when in the best interest of the Government. Any material information made available to any applicant by the Director must be made available to all applicants, and will be available to the public upon request.

(d) Negotiation of a final contract and permit with the selected applicant shall commence promptly. Material amendments to the proposed terms and conditions of the Concession Contract or Permit, as described in the prospectus, may be negotiated only after resolicitation of the concession opportunity for an appropriate period of time by amendment to the prospectus and re-advertising. After negotiation of Concession Contracts with anticipated gross receipts in excess of \$100,000 or five (5) years or more in duration, such contracts shall be forwarded to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs for a 60-day waiting period prior to award. The Director may, in his discretion, terminate negotiation of a Concession Contract or Permit at any time prior to execution by the Government and resolicit or cancel the solicitation when in the best interest of the Government.

(e) The terms and conditions of the solicitation must represent the requirements of the National Park Service and not be developed to accommodate the capabilities or limitations of any particular party.

(f) Upon a written determination that exceptional circumstances warrant waiver of the procedures described in this subsection and that it is in the public interest to protect visitor or park resources or otherwise, the Director may negotiate a Concession Contract or Permit with any qualified party without public notice or advertising.

§ 51.5 Solicitation and award of concession contracts and permits or extensions or renewal of concession contracts and permits, where a right of preference exists.

The procedures described in § 51.4 shall apply to the solicitation, negotiation and award of extensions, renewals, or replacement of contracts or per-

mits by a new contract or permit where an existing concessioner has a right of preference except as follows:

(a) A fact sheet rather than a prospectus will be developed by the Director and will describe the existing concessioner's right of preference as well as the material terms and conditions under which the National Park Service proposes to negotiate a new concession contract or permit with the existing satisfactory concessioner.

(b) The concessioner with the right of preference shall be required to submit a proposal in response to the fact sheet. If, after evaluation of all proposals received, a proposal other than that of the existing concessioner is determined to be the best proposal, the existing concessioner shall be given an opportunity to meet the terms and conditions of the best proposal. If the existing concessioner does so and its proposal, as amended, is in the judgment of the Director, at least substantially equal to the best proposal, the existing concessioner shall be selected for negotiation of the contract or permit. If not, the contract or permit will be negotiated with the party that submitted the best proposal.

(c) The requirement for public notice and evaluation of proposals received may not be waived.

§ 51.6 Preferential right for additional services where a right to additional services and facilities exists by specific contract provisions.

Where the Director seeks to authorize new or additional accommodations, facilities and services of generally the same character as provided by an existing satisfactory concessioner in a park area, and such concessioner by Concession Contract has a right to provide such additional services, the Director shall develop a description of the new or additional services and the terms and conditions upon which they are to be provided without reference to any private party and give the existing concessioner a reasonable opportunity to review such description to determine if it wishes to provide the services. If so, the Director shall authorize the additional services by

amendment to the concessioner's contract. If the existing concessioner does not agree to provide the additional services upon the terms and conditions described, the Director shall authorize additional services to be provided by a new concessioner under substantially the same terms and conditions and pursuant to the procedures of § 51.4 hereof.

§ 51.7 Sale, assignment, or encumbrance of concession contracts, permits, and assets.

(a) Concession Contracts and Permits or operations authorized thereby or controlling interests therein may not be transferred, sold, or assigned, or assets thereof encumbered in any manner, including stock purchases, mergers, consolidations or reorganizations, except with the written approval of the Director. Transfers, sales, assignments, or encumbrances consummated in violation of this requirement shall be considered null and void by the Director and a material breach of the contract or permit.

(b) The term "controlling interest," as used herein means, in the case of corporate concessioners, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner or election of a majority of the Board of Directors of the concessioner, and, in the instance of a partnership, limited partnership, joint venture or individual entrepreneurship, beneficial ownership of the capital assets of the concessioner so as to permit exercise of managerial authority over the actions and operations of the concessioner.

(c) Prior to consummating any transfer, sale, assignment or encumbrance of a controlling interest, the concessioner will request approval of the Director in writing and provide the following information:

(1) All instruments proposed to implement the transaction;

(2) An opinion of counsel from the buyer to the effect that the proposed transaction is lawful under all applicable Federal and State laws;

(3) A narrative description of the proposed transaction and the operational plans for conducting the operation;

(4) Statement as to the existence of any litigation questioning the validity of the proposed transaction;

(5) Description of the management qualifications and financial background of the proposed transferee and

(6) A statement as to whether the proposed sale constitutes a controlling interest and the particulars thereof as described in paragraph (b) of this section; and

(7) Such other information as the Director may require.

(d) Prior to the sale, transfer, assignment or encumbrance of anything other than a controlling interest, the concessioner must have notified the Director in writing and must have received acknowledgement from the Director. Information as to why it is not a controlling interest and identification of the transferee must be submitted with the required notification. Failure to comply with this provision shall make the subject sale or transfer null and void and constitute a material breach of the Contract or Permit.

(e) The Director may choose not to approve a proposed sale, transfer, assignment or encumbrance in his discretion or may place appropriate conditions on any approval as are necessary to protect the public interest. Concession Contracts and certain Concession Permits contain provisions which limit the purposes for which they may be encumbered. Such limitations are incorporated by reference herein as an element of the Director's review of such transactions.

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Sec.

- 60.1 Authorization and expansion of the National Register.
- 60.2 Effects of listing under Federal law.
- 60.3 Definitions.
- 60.4 Criteria for evaluation.
- 60.5 Nomination forms and information collection.

SUMMARY OF PARK FEES AND CONCESSIONS BILL
CS HB 16 (Fin)

I) User Fees

Prohibits DNR from collecting fees for ordinary park uses including use of a restroom.

Prohibits DNR from from collecting fees (directly or through a contractor) except for:

- *rental of a public use cabin or other overnight lodging
- *use of a developed campsite
- *special park use permits
- *commercial use permits
- *use of a holding tank dump station
- *guided tours of a historic site

Provides criteria for the state to consider when adopting fees through the regulation process.

II.) Contracting for Fee Collection

Authorizes DNR to contract for fee collection and routine park maintenance activities.

III) Park Concessions

Prohibits DNR from entering into concession contracts unless the contract will:

- *implement the purposes of a park and is authorized in a management plan, if any
- *enhance public use and enjoyment of a park and maintains a high quality environment and recreational opportunities
- *be for services or facilities that are not feasible or affordable for DNR to provide directly
- *not create substantial adverse environmental effects
- *be based on a clear need or desire of the public
- *recognize and accommodate, at no cost, ordinary uses in a park unit
- *require the contractor to hire residents of the state, to the extent qualified and available
- *provide the state with a fair and equitable portion of the contractor's receipts
- *provide that DNR retains control over fees and the design of facilities
- *require contractors to accommodate special visitors such as handicapped persons, senior citizens and school children
- *provide for regular inspections by DNR of the facilities and services
- *provide that the contract will be terminated if the contractor fails to protect park values and resources or fails to maintain a high quality environment and recreational opportunities

Before bids or proposals are sought or a contract negotiated DNR must:

- *inquire with local residents to identify community concerns

If DNR decides to proceed further, DNR shall make a preliminary decision that includes the findings required above and:

- *assesses existing visitor use in the park area
- *assesses potential conflicts with wildlife, water, scenic values and other resources
- *identifies the kinds of services to be provided
- *establishes general contract terms and conditions
- *determines if the activity would be more appropriately located outside the park or on private lands within the park
- *views and comments of the park advisory board, if any

After making the preliminary decision, DNR shall:

- *seek public comment on the preliminary decision and, if facilities are to be built, hold public hearings

After considering public comment, issue a final decision on whether or not DNR will enter into a concession contract award process.

DNR must allow public review and comment prior to renewal or extension of a contract.

DNR must report every two years to the Legislature on the status of park concessions.

DNR may adopt regulations for concessions.

DNR may not enter into a concession contract in the Alaska-Chilkat Bald Eagle Preserve.

Ordinary uses are defined as those uses not generally associated developed facilities including fishing, hunting, walking, swimming, picnicking, or automobile parking associated with another ordinary use.

The law applies only to units of the state park system.

The state shall separately account for funds collected through user fees and other moneys collected under the provisions of the bill and separately account for them. The annual estimated balance may be used by the legislature to fund park programs.

AS 28.10.411(e) and AS 41.35.045 are repealed.

The Act takes effect July 1, 1987.

prepared by DNR/Parks 3/4/87

Original sponsors: Navarre, Koponen,
Swackhammer, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 16 (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 relating to the levy and collection of fees
7 for the use of state park system facilities; relating
8 to contracts for services and facilities in the state
9 park system; and providing for an effective date."

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

11 * Section 1. AS 41.21 is amended by adding new sections to read:

12 Sec. 41.21.026. FEES FOR THE USE OF STATE PARK SYSTEM FACILI-
13 TIES. (a) The department may not, either directly or through another
14 person, charge or collect a fee for an ordinary use of a park unit or
15 the use of a restroom in a park unit.

16 (b) In addition to the prohibition in (a) of this section, the
17 department may not establish and collect fees for the use of a park
18 unit, except for

- 19 (1) rental of public use cabins or other overnight lodg-
20 ings;
- 21 (2) overnight use of a developed campsite;
- 22 (3) special park use permits;
- 23 (4) noncompetitive and nonexclusive commercial use permits;
- 24 (5) use of a sewage holding tank dump station; and
- 25 (6) guided tours of historic sites.

26 (c) The department shall establish the fees for uses under (b)
27 of this section by regulation. Before setting the fees, the depart-
28 ment shall consider at public hearings

- 29 (1) the cost to the state of operating the facility or

1 managing the activity;

2 (2) the normal fees charged for similar facilities or
3 activities by governmental and nongovernmental entities;

4 (3) the cost of administering a fee collection program for
5 the facility or activity; and

6 (4) the public interest.

7 (d) In this section, "developed campsite" means a campsite
8 having access to the following public facilities:

9 (1) restrooms;

10 (2) a picnic table;

11 (3) an outdoor cooking facility; and

12 (4) an approved water source.

13 Sec. 41.21.027. MAINTENANCE AND COLLECTION CONTRACTS IN THE
14 STATE PARK SYSTEM. (a) The state may contract under AS 36.30 (State
15 Procurement Code) for

16 (1) the collection of fees charged for uses under AS 41.-
17 21.026(b); and

18 (2) park unit maintenance activities; "park unit mainte-
19 nance activities" means

20 (A) refuse collection;

21 (B) janitorial maintenance of facilities;

22 (C) litter pickup;

23 (D) painting;

24 (E) fireplace cleaning;

25 (F) sewage pumping;

26 (G) minor repair and replacement of facilities;

27 (H) snowplowing and road maintenance;

28 (I) brushing trails, picnic areas, and campsites;

29 (J) other normal park unit maintenance activities.

1 (b) The state may combine in a single contract the services
2 listed in (a)(1) and (2) of this section.

3 (c) A contract under this section is not subject to AS 41.21.-
4 028.

5 Sec. 41.21.028. CONCESSION CONTRACTS IN THE STATE PARK SYSTEM.

6 (a) The state may not enter into a concession contract under AS 36 to
7 provide services or to operate or construct facilities in a park unit
8 unless the commissioner finds that the proposed concession contract

9 (1) will implement the purposes of the park unit and is
10 authorized by the park management plan, if any, that applies to the
11 park unit;

12 (2) will enhance public use and enjoyment of the park unit
13 while maintaining a high quality environment and the opportunity for
14 high quality recreational experiences;

15 (3) will provide services or facilities that are not feasi-
16 ble or affordable for the state to provide directly;

17 (4) will not create substantial adverse environmental
18 effects;

19 (5) is based on a need or desire of the public;

20 (6) recognizes and accommodates, at no cost, ordinary uses
21 in a park unit;

22 (7) requires the contractor to hire residents of the state,
23 to the extent available and qualified, when hiring persons to work in
24 the park under the contract;

25 (8) provides the state with a fair and equitable portion,
26 in money or services, of the contractor's receipts from the provision
27 of the service or the operation of the facility;

28 (9) provides that the department retains control over the
29 level of fees and the design and appearance of any facility to be

1 constructed;

2 (10) requires the contractor to accommodate visitors with
3 special circumstances, including handicapped persons, senior citizens,
4 and school children;

5 (11) provides that during the term of the contract the
6 commissioner shall regularly review and inspect the

7 (A) operation of the facility; and

8 (B) contractor's provision of service to the public;

9 and

10 (12) provides that the contract shall be terminated if the
11 contractor fails to protect park values and resources or fails to
12 maintain a high-quality environment and recreation experience.

13 (b) Before bids or proposals are sought or contract negotiations
14 begun under AS 36.30 for a concession contract under (a) of this
15 section, the commissioner shall

16 (1) make a preliminary inquiry at the local level to
17 identify community concerns;

18 (2) if it is appropriate to proceed further, make a pre-
19 liminary decision that includes the findings required by (a) of this
20 section and

21 (A) an assessment of existing visitor uses that may be
22 affected by the activities of the contractor;

23 (B) an assessment of the potential conflicts or sig-
24 nificant effects on park wildlife, water, scenic values, or other
25 resources;

26 (C) an identification of the types of services or
27 goods that the contractor is to provide;

28 (D) the terms and conditions of the contract;

29 (E) a determination of whether the contract activity

1 would be more appropriately located on land outside of the park
2 or on private land within the park; and

3 (F) the views and comments of the park advisory board
4 when one exists, for the park unit in which the activity is being
5 considered;

6 (3) after making a preliminary decision under (2) of this
7 subsection,

8 (A) seek public comment on the preliminary decision
9 through reasonable public notice and, if facilities may be built
10 under the concession contract, conduct public hearings;

11 (B) after considering the public comment obtained
12 under this subsection, issue a final decision on whether or not
13 the state will proceed into a concession contract award process.

14 (c) The commissioner shall provide for public review and comment
15 before a concession contract under this section is renewed or ex-
16 tended.

17 (d) By the 15th day of each first regular session of the legis-
18 lature, the commissioner shall make available to the legislature
19 report on the provision of services or operation of facilities under
20 concession contracts under this section during the previous two fiscal
21 years, including

22 (1) contract activities;

23 (2) new or expanded contracts whose estimated or actual
24 gross receipts exceed \$25,000; and

25 (3) violations of contract standards.

26 (e) The commissioner may adopt regulations to implement this
27 section.

28 (f) The commissioner may not enter into a concession contract
29 for the Alaska Chilkat Bald Eagle Preserve.

1 (g) In this section

2 (1) "concession contract" does not include a contract under
3 AS 41.21.027;

4 (2) "facilities" includes campgrounds, boat launches,
5 lodges, food service operations, and gift shops.

6 Sec. 41.21.029. DEFINITIONS. (a) In AS 41.21.026 - 41.21.029

7 (1) "ordinary use" means a use that is not generally asso-
8 ciated with developed facilities, including fishing, hunting, walking,
9 swimming in a natural body of water, picnicking, or automobile parking
10 associated with another ordinary use;

11 (2) "park unit" means a unit of the state park system.

12 * Sec. 2. AS 41.21.030 is amended by adding a new subsection to read:

13 (b) The commissioner of administration shall separately account
14 for fees and other money collected under AS 41.21.026 - 41.21.029 and
15 deposited under (a) of this section. The annual estimated balance in
16 the account may be used by the legislature to make appropriations to
17 the department to carry out the purposes of this chapter.

18 * Sec. 3. AS 28.10.411(e) and AS 41.35.045 are repealed.

19 * Sec. 4. This Act takes effect July 1, 1987.
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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 16 (Finance)

Publish Date: _____

Revision Date: March 4, 1987

Agency Affected: Natural Resources

Title: Fees for use of state park facilities

BRU: Park Management

Sponsor: House Resources

Components: _____

Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		28	30	34	34	34
TRAVEL		18	8	3	3	3
CONTRACTUAL		20	15	10	10	10
SUPPLIES		3	2	2	2	2
EQUIPMENT		27	20	10	10	10
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		96	75	59	59	59

CAPITAL						
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REVENUE		30	170	334	490	550
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FUNDING: (Thousands of Dollars)

GENERAL FUND		96	75	59	59	59
FEDERAL FUNDS						
OTHER						
TOTAL		96	75	59	59	59

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1	2	1	1	1

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Neil Johannsen
Division: Parks and Outdoor Recreation

Phone: 465-2400
Date: 2-3-87

Approved by Commissioner: C. Williams for JMB
Agency: Natural Resources

Date: 3/5/87

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

Fiscal Note Information
for CSHB 16 (Finance)

Costs
FY88

personnel services \$28.0

- *increase existing Natural Res. Manager I position in charge of concessions and fees from 6 months to 12 months \$25.8
- *hire one seasonal Alaska Conservation Corps staff person or support a volunteer college intern through a \$15/day stipend cost is \$2.2

Travel \$18.0

- *statewide regulations hearings to adopt fee structure \$8.0
- *meetings & hearings on proposed concessions \$5.0
- *field inspections of concessions \$5.0

Contractual \$20.0

- *establish campground fee registration and payment systems at 20 campgrounds. \$1,000 per campground as follows:
 - signs \$200
 - Iron Ranger fee device \$350
 - lock device \$ 50
 - labor to install \$400

Supplies and Materials \$3.0

- *purchase of printed payment envelopes \$2.5
- *accounting and reporting forms \$0.5

Equipment \$27.0

- *install fee box device in park ranger vehicles to transport fees to park offices. Prevents tampering with funds
225 vehicles at \$680 per vehicle \$17.0
- *Safes and lock boxes for 10 area offices. Estimated cost is \$1.0 per office. \$10.0

Revenues
FY88

Fees:

Commercial Use Permits \$6.0 (120 at \$50 each)
Public Cabins \$5.0 (1986 level of revenues)

Concessions (Franchise Fee Payments)

Potter Section House \$10.5 (3% of \$350.0 gross receipts)
Rika's Roadhouse \$8.5 (3% of \$280.0 gross receipts)

estimated total revenue for FY88 is \$30.0

Future Revenues (campground fees are added and additional concessions and commercial use permits are established)

FY 89	\$170	FY 91	\$490
FY 90	\$334	FY 92	\$550

MEMORANDUM

TO: Rep. Sam Cotten, Co-Chair
Rep. Adelheid Herrmann, Co-Chair
Members of the Resources Committee

FROM: Ned Farquhar, Staff *Ned*

SUBJECT: Campground fee bills (HB 16, HB 19)

DATE: January 23, 1987

Rep. Navarre's HB 16 and Rep. Larson's HB 19 on state park campground fees will be heard in Committee on Monday, January 26. Natural Resources Commissioner Brady will be at the meeting and Neil Johannsen, Director of Parks, should be on the telephone from Anchorage.

Background

There has been a lot of discussion of state park campground fees in recent years. During the Fourteenth Legislature, the House Resources Committee introduced a bill (HB 257) to institute the fees; the bill moved promptly through the House but was still in the Senate Finance Committee (CSHB 257 Res am) at the end of the session. When the issue came up during the Thirteenth Legislature, the only new authority to collect fees in state parks was provided for tours of historic sites (AS 41.35.045, attached).

Issues

Alaska is the only state without a campground fee program, even though much of the use of our campgrounds is by out-of-state visitors. Supporters of the fees believe that fees increase public responsibility for the parks and campgrounds, return revenues to the State, and can be instituted at a relatively low cost with low administrative overhead. Opponents believe that state park campgrounds should be turned over to private operators or owners who will then have to compete in the tourism market.

The bills

Both bills allow the Department of Natural Resources to establish campground fees. The slight differences in language describing necessities are not material.

HB 16 would establish a more flexible fee program, without a limit on the amount of the fee. However, in determining the fees, the Department would be required to justify them and

subject them to public scrutiny. It would be effective immediately. The bill contains repealers of existing statutory language (copies attached) prohibiting the collection of fees in state park campgrounds (AS 29.10.411(e) and associated language (AS 41.35.045(b))).

HB 17 is a simpler bill, leaving unstated any considerations that would be required of the Department in establishing the fees. The effective date would coincide with the beginning of the new fiscal year. The bill does not include the repeal of AS 29.10.411(e), exempting cars with Alaska license plates from fees.

Fiscal impacts

The costs of the bills are to comply with the administrative requirements for promulgation of regulations, to install fee collection devices, and to administer the collection process. There would be no personal services costs.

Agency concerns

1. In the past, the Department has proposed that the fee program be included in the state's program receipts authorization. This would allow better maintenance of campgrounds and would assure a direct relationship between the collection of fees and campground conditions. Because there are conditions and other fee-collection language in statute, the development of program receipt language could be complicated.

2. The Department is interested in expanding beyond campground fees into concessions and other revenue-raising measures (boat launches, picnic and parking areas, food and lodging, gifts and other goods and services). If this is discussed and advanced, it would be a good idea to assure that there are public-interest and park protections explicitly stated in the statute (i.e., hearings/notice, market-value and assured revenue to the State, park value protections, implementing regulations, and public preliminary and final best-interest findings).

Attachments

Rep. Navarre has provided a letter from Chugach Park Advisory Board members who believe that user fees will benefit the park and users (p.2). Rep. Larson's staff has prepared a comparative analysis of the bills.

DATE: January 20, 1986
TO: Representative Ron Larson
FROM: Larry Bussone
SUBJ: Comparison of House Bills 16 and 19 (park user fees)

Following is a comparison of House Bill No. 16 ("their bill"), sponsored by Representatives Navarre, Koponne, Swackhammer, Brown, and Goll, and House Bill No. 19 ("your bill"), sponsored by Representatives Ellis, Menard, and Larson.

(1) Both bills propose amending AS 41.21 to provide for park user fees.

(2) The placement of the proposed amendments varies. Both place the amendment within "Chapter 21. Parks and Recreational Facilities." and "Article 1. Administration." Their bill proposes the amendment at AS 41.21.023, which would be between "AS 41.21.020. Duties of Department of Natural Resources." and "AS 41.21.025. Zoning of private land within state parks." Your bill places the amendment at AS 41.21.050, which is at the end of Article 1.

(3) Their bill proposes that "The department . . . establish and collect fees for the overnight use of state park developed campsites." Your bill proposes that "The commissioner may, by regulation, establish a fee for the use of an improved campsite within a state park or recreation area" and later provides for developing procedures for collecting fees. I assume that the "department" and the "commissioner" are essentially the same. Both provide for the collection of fees. Their bill establishes fees for "the overnight use of state park developed campsites"; yours establishes fees for "an improved campsite within a state park or recreation area." I don't know if there is an important difference between the two, or if one is preferential to the other.

(4) Both bills call for the establishment of fees through regulations. The major difference between the bills is that their bill calls for considering four factors when setting fees: (a) the cost to the state of operating the facility; (b) the fees charged for the use of a similar facility by a nongovernmental entity; (c) the cost of

administering a fee collection program for the facility; and (d) the public interest. Your bill simply says that the fee may not exceed \$5 per vehicle per day.

(5) Their bill defines "developed campsite" and "state park"; yours does not.

(6) Their bill calls for the repeal of AS 28.10.411(e) ("Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground.") and AS 41.35.045(b) ("The exemption from fees in AS 28.10.411(e) is not applicable to this section." [The section establishes fees for guided tours through historical sites.]). Yours does not.

(7) Their bill calls for an immediate effective date under AS 01.10.070(c). Your bill calls for an effective date of July 1, 1987.

§ 41.23.130

§ 41.30.020

PUBLIC RESOURCES

§ 41.35.180

1/4NW1/4, W1/2

1/4NW1/4, SE1/4

SW1/4SE1/4

1/4NE1/4SE1/4

Chapter 30. Area Redevelopment.

AS 41.35.045 (a-b)

HISTORIC SITES
GUIDED TOUR FEE
(1984)

Meridian

SW1/4NW1/4,
1/4NE1/4SE1/4

Meridian

SE1/4NE1/4
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NW1/4NE1/4

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1/4SW1/4SW1/4,
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1/4NE1/4NW1/4
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1/4SE1/4, S1/2
1/4, S1/2NE1/4

1/4

NW1/4NW1/4

- Sec. 41.35.045. Fees for guided tours through historical sites.
- a) The department may establish and collect fees for guided tours through historical sites.
- b) The exemption from fees in AS 28.10.411(e) is not applicable to this section. (§ 1 ch 84 SLA 1984)

Revisor's notes. — Enacted as AS 41.021. Renumbered in 1984.

- Sec. 41.35.180. Duties of committee. The committee shall
 - 1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric or archeological significance as would justify their acquisition and ownership by the state;
 - 2) cooperate with the department in formulating and administering a statewide historic sites survey under 16 U.S.C. 470-470n (P.L. 89-665. National Historic Preservation Act of 1966);

supplement 159

THE STATE OF ALASKA
 DEPARTMENT OF PUBLIC RESOURCES
 DIVISION OF LAND
 1984

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under AS 28.10.421(b)(1), (2), (5), (6) or (d) shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978; am § 85 ch 6 SLA 1984)



AS 28.10.420(e)
EXEMPTION FROM
PARK FEES FOR
ALASKA VEHICLES

g) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer \$ 5.

c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or the commissioner's representative, for a vehicle, including a motor vehicle pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

• Up to and including 5,000 pounds \$45;

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title fee required under § 441 of this chapter, the department shall issue a new certificate of title. (§ 7 ch 178 SLA 1973)

Article 5. Fees and Charges.

Section

- 41L. Registration fees levied
- 42L. Registration fee rates

Section

- 43L. Annual motor vehicle registration tax
- 44L. Schedule of other fees and charges

Sec. 29.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) Motor carrier and bus transportation fees paid on vehicles subject to the Alaska Motor Freight Carrier Act (AS 42.10) and the Alaska Bus Act (AS 42.15) shall be paid to the department at the same time the registration fee is paid.

(c) A resident 65 years of age or older is entitled to an exemption from tax under this section for one motor vehicle subject to registration. No exemption may be granted except upon written application for the exemption on a form prescribed by the department.

(d) The Department of Community and Regional Affairs shall pay to the borough and to the city in which a person who is granted an exemption under (c) of this section resides an amount equal to the tax levied under § 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under § 421(b)(1), (2), (5), (6) or (d) of this chapter shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1973)

Sec. 29.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under §§ 101—111 of this chapter.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

- (1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use \$30;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;
- (3) a taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists \$80;
- (5) a motorcycle or a motor-driven cycle \$15;

Statute which prohibits the charging Alaska residents for entering or using a state park or campground

December 8, 1986

Representative Mike Navarre
312 Tyee Street
Soldotna, Alaska 99669

Re: Economic importance of Chugach State Park
Harmful effects of Chugach State Park budget cuts
Support for Chugach State Park funding

Dear Representative Navarre:

As members of the Chugach State Park Citizen's Advisory Board, we have become increasingly concerned about the effects of State budget cuts on the Park. Enclosed is a copy of a report documenting these effects. Also enclosed is a copy of an article by Bill Sherwonit of the Anchorage Times, providing further information about the problems caused by budget cuts.

Chugach State Park is very heavily used both by Alaska residents and by visitors to Alaska. Use of the Park has been rising steadily. The Park has enormous potential for aiding the development of tourism in Alaska.

Although the task of managing and protecting Chugach State Park has grown as the number of visitors has increased, the Park operating budget has been cut by 29 percent over the past two years. Due to these budget cuts, essential maintenance is not being performed; law enforcement, search and rescue, and interpretation have all but ended; and facilities are being closed. The newly completed Potter Section House--the single most visible facility in the Park--was closed two days after it was dedicated, since there are no new funds to operate it. Without ranger patrols, damage due to vandalism and illegal ATV use is increasing. In addition, capital projects necessary to prevent severe environmental degradation are not being undertaken. The results of this degradation will be with us and our children for decades.

In response to this situation, the Chugach State Park Citizen's Advisory Board passed a unanimous resolution at its October meeting that "No more cuts should be made to the operating budget of Chugach State Park."



CHUGACH STATE PARK CITIZENS' ADVISORY BOARD

We are well aware that the State of Alaska is facing severe reductions in revenues, that cuts have been made throughout state government, and that further significant cuts will be necessary. Nevertheless, we feel that it is essential that the State continue to fund the Chugach State Park budget at a level necessary to prevent degradation of the environment, to protect public safety, and to encourage continued growth of the tourism industry.

Parks have the potential to provide revenues for the state through user fees such as campground fees. Alaska is the only state in the union which does not currently collect campground fees. We urge you to support legislation which would permit the collection of campground fees.

Most importantly, we urge you to work for the protection of funding for the Chugach State Park operating budget.

Sharon McCasina, Chair Sincerely,

Murray Knapp

Tom L... ..

Mark Shoh

James C Beile

Mark Hickok

Tom Meacham

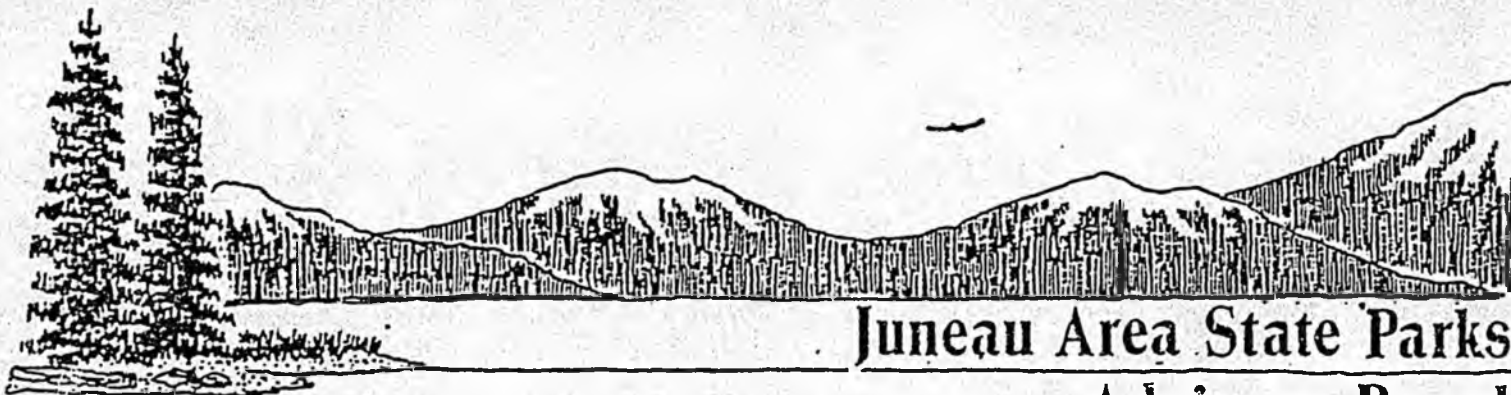
Barbara Plough

Members, Chugach State Park
Citizens' Advisory Board

Enclosures



CHUGACH STATE PARK CITIZENS' ADVISORY BOARD



Juneau Area State Parks Advisory Board

400 Willoughby Avenue
Juneau, Alaska 99801

Dear Representative Cotten,

The Juneau Area State Parks Citizen Advisory Board would like to express its support for HB 16 in its present form. We have followed its progress thus far and feel that the additions made to it in the House Resources Committee concerning protecting park values and resources, a state's best interest determination, and the inclusion of a public hearing process are excellent.

We would like to suggest that a provision also be included to the effect that all other possibilities for siting of concessionaire activities on private or public non park lands be exhausted before allowing them within a State Park.

Thank you for your consideration.

Sincerely,

Cristi Herren
Chairperson
Juneau State Parks Advisory Board

Norlite Campground
1660 Peger Road
Fairbanks, Alaska 99709

January 27, 1987

Re: Fees for State Operated Campgrounds

To Whom it May Concern:

We are an independent, privately owned campground. We opened our gates to the public the same year that you opened the Chena River Wayside facility. That has been 20 years ago. We have been trying to encourage you to charge a fee for 10 these many years and to no avail. It truly hurts our business to have the Chena River Wayside Campground, FREE. We feel the competition is just a wee bit unfair. As you can imagine it's pretty hard to try and sell a product when it's being given away just down the road.

The Fairbanks Area Citizen's Advisory Board has recommended in the past that you charge a fee. There have been several bills before the legislature to in act a fee but because of poor wording they have always been rejected.

It seems that in times like this with the economy in such awful shape that if you were to charge a reasonable fee that you may just be able to recoup some of the approx. \$41,000 operating costs. The touring public does not expect to have their vacations subsidized and let's face it we as the State can't afford to do it any longer.

William J. ...

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION

3501 C STREET
ANCHORAGE ALASKA 99503
PHONE 3371381-3025

MAILING ADDRESS
PO BOX 7301
ANCHORAGE, ALASKA 99510

January 27, 1987

The Honorable Sam Cotten, Co-Chairman
The Honorable Adelheid Herrman, Co-Chairwoman
House Resources Committee
Alaska State Legislature
PO Box V
Juneau, Alaska 99811

Dear Representatives Cotten and Herrman:

Subject: Responses to questions raised on 1/26 regarding HB 16,
which authorizes user fees in state park areas

Several questions were raised in the morning teleconference held January 26 regarding the bills that would allow fees for use of state park facilities. The information below should answer most of the concerns voiced in that meeting.

1. Why would the division use concessioners or private operators to manage certain sites?

The primary reason for the fee system and or concession management of some park units is the radical reduction in the Alaska State Park budget and a corresponding reduction in field staff. Concessioners can help to bridge the gap by providing maintenance and other park services that the state cannot provide. Research shows that concession-operated parks have much less vandalism and the visitor's experience is enhanced by the on-site concession manager or operator.

Concession management has been successfully used in many federal and state parks in Alaska. In Chugach State Park a concession operation has been successfully negotiated at the Potter Section House site, and the division is currently negotiating a concession contract for the Big Delta State Historic Park. Contracts at both of these sites will include full concessioner maintenance and operation of park facilities which will greatly reduce the projected operating expenses of those parks.

2. What campgrounds or other sites would be considered for concession management instead of complete state management?

Alaska State Parks intends to enter into the fee collection and concession management process slowly so that we can learn about potential pitfalls and avoid problems. The division has no plans at this time for a massive concession program, and intends to assess each area and site before launching into the concession process.

A preliminary analysis shows that the Bird Creek and Eagle River campgrounds in Chugach State Park might be operated by a concessioner. The Chena River Recreation Site in Fairbanks is another campground with potential for concession management.

Before deciding to concession a park unit campground, the division would assess the potential of the concession operation, determine whether the operation is in keeping with the site's purposes, and invite public review through the various state park Citizens Advisory Boards or through public meetings.

3. Should the bill retain a degree of flexibility regarding concessions?

In many sites that could be operated by concessioners, campground fees may not produce enough revenues to make an economically viable operation. Fees for boat rentals, picnic areas and boat launches may be acceptable, and other operations like camp stores, tackle and firewood sales may also be desired. The bill must remain flexible to allow these concession management options.

In all concession operations the division retains control over rates charged for services, advertising, and operations to be allowed. In most cases the park visitor would probably notice very little difference between the concession operated fee system and one operated by the state.

4. If a park unit does not generate much revenue will that unit receive less attention from Alaska State Parks?

The division intends to recover only a portion of the operating cost of the Alaska State Park System. It does not intend to take a "Cash Register Approach" to state park management. Other purposes specified in the park system enabling legislation include: provision of recreational opportunities; preservation of natural, cultural, and historic resources; and other purposes specific to certain park units. These purposes and goals determine the allocation of state resources to certain park units.

very important

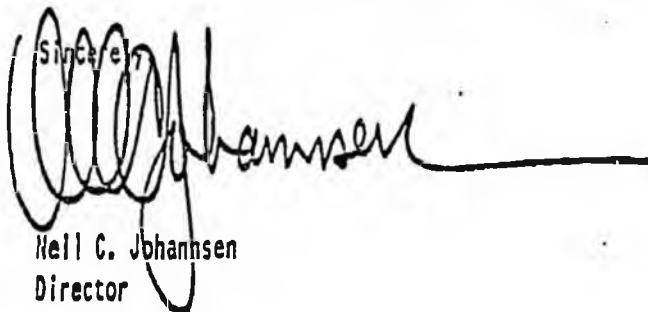
January 27, 1987

The division also intends to continue its efforts to be sensitive at all times to the needs of "special populations" such as the handicapped, senior citizens, school and community groups. We also plan an annual pass similar to the federal "Golden Eagle" pass.

5. Why should the revenues collected be spent on managing the Alaska State Park System?

Visitors to park units are more willing to pay fees when they know that the revenues will be spent on maintaining and operating the parks. It does "cost money to make money" and the division expects to incur additional expenses in initiating, operating, and maintaining the fee collection systems. These costs should be more than offset by the revenues collected. Park staff, volunteers, and other cooperating groups also have more incentive to create an effective fee collection system when the revenues collected are directly related to improvements in their park units.

Thank you for your interest in and support of Alaska State Parks. If you have any further questions, please feel free to contact me.

Sincerely,

Neil C. Johannsen
Director

CC: Sponsors
Committee Members
Commissioner's Office
Mike Bradner

INVENTORY OF EXISTING & POTENTIAL COMMERCIAL ACTIVITIES,
USER FEES AND CONCESSIONS.

Park Unit or Subunit	SRS	NR	TOR	Camp- sites	h ground	Potential fee ground	Existing Commercial Use	Concession Contracts	Potential Concessions	Park Plans	Advisory Board	Notes
Birch Lake	SRS	NR	TOR			Y			CATVAREND AND PARKING AREA (EST 1989)	NONE		Fairbanks Area
Clearwater	SRS	NR	TOR	18		Y	Y			Current Site Plan	None	
Deadman Lake	SRS	NR	TOR	16		Y	Y	1 Tour Bus Company		Current Site Plan	None	
Delta	SRS	NR	TOR	22		Y				Current Site Plan	None	
Donnelly Creek	SRS	NR	TOR	12		N				Current Site Plan	None	
Bagle Trail	SRS	NR	TOR	40		Y				Current Site Plan	None	