

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 795



Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

March 3, 1992

Rep. Dave Donley, Chair
House Judiciary Committee
P.O. Box V
Juneau, AK 99811

RE: ACE Support for HB 483, HB 484, and HB 486

Dear Rep. Donley:

The Alaska Center for the Environment (ACE) appreciates this opportunity to express our support for the above referenced legislation. It is essential that the legislature exert its full authority under the constitution to appropriate monies, and also to ensure that adequate public oversight occur in regards to how spill settlement funds are expended.

Therefore, ACE supports HB 484 and HB 486. These bills will help ensure that the legislature will retain its full constitutional authority to appropriate money from the Exxon Valdez oil spill settlement. There is widespread concern among Alaskans regarding the manner in which the Trustee Council will spend the settlement monies. For instance, despite overwhelming support from throughout the spill-impacted region for investing most of the settlement money in an aggressive program of habitat acquisition, the Trustee Council is dragging its feet while publicly expressing support for programs other than habitat acquisition. It is therefore important for the legislature to protect the public interest through full review and approval of restoration expenditures. In support of this oversight authority, we recommend that the legislature establish a citizen advisory committee to advise the legislature on questions regarding proposed expenditures.

ACE also supports HB 483, which would require court approval of, and opportunity for public review and comment on, future proposed settlements of public interest litigation. The inadequate Exxon Valdez settlement was finalized without the benefit of public review and comment, and this mistake should not be allowed to happen again. As can be seen from the high level of public interest and extensive testimony occurring in the Trustee Council proceedings, there is much to be gained by public involvement.

We appreciate the opportunity to comment on these bills.

Sincerely,

A handwritten signature in cursive script that reads "Alan Phipps".

Alan Phipps
State Lands Specialist



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

March 9, 1992

Representative Gruenberg
P. O. Box V
Juneau, Ak. 99811

RE: HB 483, HB 484, HB 486

Dear Representative Gruenberg,

The Alaska Environmental Lobby (AEL) would like to express its support of House Bills 483, 484 and 486. AEL believes that there was not adequate legislative or public participation in the review and acceptance of the second settlement proposal with Exxon concerning its liability for the Exxon Valdez oil spill. HB 483 mandates that any settlement for future resource damages in excess of \$10 million would be subject to Legislative approval and public review. AEL believes that all issues of such magnitude and importance be subject to extensive public review and comment.

AEL supports HB 484 because it will help prevent the further exclusion of the public from the decision making process regarding the Exxon settlement. We believe that any disbursement of the monies paid into the Trust must be subject to public review. The Alaskan Legislature provides the best mechanism for providing adequate public participation and oversight in the deciding how these funds should be spent.

Thank you for introducing these three bills.

Sincerely,

Russell Heath





Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

Exxon Oil Spill Trust--HB 484 and HB 486

The Alaska Environmental Lobby supports HB 484 and HB 486.

These bills will help prevent the further exclusion of the public from the decision making process regarding the Exxon Valdez settlement. Its important for the legislature to protect the public interest through full review and approval of restoration monies.

These bills will also help ensure that the legislature retains its full constitutional authority to appropriate monies, giving it more control over how the settlement is spent.

We believe that passage of HB 484 & 486 will provide the only way for concerned Alaskans to have much say in how the Exxon Valdez settlement monies are used.

Linda Franklin, volunteer lobbyist
April 28, 1992



PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ 17th STATE LEGISLATURE - 2nd SESSION
FINAL REPORT OF THE SETTLEMENT SUBCOMMITTEE
HOUSE JUDICIARY COMMITTEE

HB 486

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 6, 1992

FURTHER REFERRALS:

Date of Committee Action: 4/30/92

The FINANCE Committee considered:

HB 486

HOUSE BILL NO. 486

APPROP: EXXON VALDEZ OIL SPILL TRUST

"An Act making a contingent appropriation to the Exxon Valdez Oil Spill Trust; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 486 (FIN) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Maden Mackan	+	Referred to Phillips		✓	
Mike Savane Navarre	/	Referred to Sharp		✓	
Mark Boyer Boyer	X	Referred to Barnes		X	
Taylor Brown Brown	✓				
Robert Koponen Koponen	✓				
Orville Larson Larson	-				
J. Ulmer Ulmer	✓				

Mike Savane EP Maden
 CHAIRMAN'S SIGNATURE
NAVARRA Mackan

Revision Date: _____
Title: "...making a contingent appropriation to the Exxon Valdez Oil Spill Trust..."
Sponsor: House Judiciary by Request
Requestor: House Judiciary Committee

Department Affected: LAW
BRU: Exxon Valdez Litigation
Component: Exxon Valdez Litigation

COMPONENT SERIAL

1	1	7	5
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL	*	*	*	*	*	*
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	*	*	*	*	*	*

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The House Judiciary Committee received a blank Department of Law fiscal note on HB 486.

The House Judiciary Committee requests that the House Finance Committee provide the proper fiscal note for this bill.

Prepared by: [Signature]
Division: V. Chair H. Judiciary Committee

Phone: _____
Date: 4/3/92

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 486 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act making a contingent appropriation to the trust established for damages to natural
2 resources affected by the March 24, 1989, Exxon Valdez oil spill; and providing for an
3 effective date."

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

5 * Section 1. (a) Contingent upon (b) of this section, the interest of the State of Alaska in the money
6 paid during fiscal years 1992 and 1993 by Exxon Corporation, Exxon Shipping Company, or Exxon
7 Pipeline Company, under the Agreement and Consent Decree in United States v. Exxon et al., and State
8 of Alaska v. Exxon, et al., United States District Court, District of Alaska, cases No. A91-082 Civ. and
9 A91-083 Civ., and not paid to the state or federal governments as reimbursements for expenses related
10 to the Exxon Valdez oil spill and incurred by either government on or before December 31, 1992, is
11 appropriated to the trust.

12 (b) The appropriation made by (a) of this section is contingent upon the taking effect of a bill
13 or bills passed by the Seventeenth Alaska State Legislature that

14 (1) recognize the trust;

1 (2) prohibit state agencies from expending money received from the trust except in
2 accordance with an appropriation made by law;

3 (3) require state officers designated as trustees of the trust to comply with AS 39.52 and,
4 in certain circumstances, with AS 44.62.310 - 44.62.312; and

5 (4) require the state officers designated as trustees of the trust to agree to expenditures
6 from the trust only if they are paid to an agency of the state or federal government or are for
7 administrative expenses of the trust and are consistent with the competitive principles of AS 36.30.

8 (c) In this section, "trust" means the trust established for natural resource damage recoveries
9 under the Memorandum of Agreement and Consent Decree entered into by the United States and the
10 state in settlement of claims to money received by the state and federal governments for injury, loss, or
11 destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill, and approved
12 by the court on August 28, 1991, in United States v. Alaska, United States District Court, case No. A91-
13 081 Civ.

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

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 486

1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: "...making a contingent appropriation to the Exxon Valdez Oil Spill Trust..."
 Sponsor: House Judiciary by Request
 Requestor: House Judiciary Committee

Department Affected: Department of Law
 BRU: Exxon Valdez Litigation
 Component: Exxon Valdez Litigation

COMPONENT SERIAL

1	1	7	5
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The Attorney General's comments will be forthcoming after an opportunity to review the bill.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: March 5, 1992
 Date: March 5, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Alaska State Legislature



House of Representatives
House Judiciary Committee
Chairman Dave Donley

State Capitol
Juneau, Alaska 99801-1182
(907) 465-4990

TRANSMITTAL LETTER TO ACCOMPANY CSHB 486 (JUDICIARY)

The House Judiciary Committee requests that the House Finance Committee put appropriations in the budget for all Exxon Valdez Oil Spill Trust monies that will be transferred to state agencies, and the state's interest in funds transferred to federal agencies in FY'92 and FY'93.

HB486.LET/MTH

State of Alaska



J. J. BOX V
JUNEAU, AK 99811
(907) 465-3718
465-4968/4986
(SESSION)

Reader

NY

SAIRS
STEE
AFFAIRS

LEGISLATIVE COUNCIL

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

3111 C STREET, SUITE 440
ANCHORAGE, AK 99503
(907) 561-7621

M E M O R A N D U M

DATE: April 6, 1992

TO: Representative Mike Navarre
Co-chair, House Finance Committee

FROM: Representative Max Gruenberg *MAX*

RE: CSHB 486 (JUD), "The Exxon Valdez Oil Spill Trust
Contingent Appropriation Bill"

I would very much appreciate it if you would schedule HB 486 for a hearing as soon as it is possible.

HB 486 appropriates the states interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust. This appropriation is contingent on the taking effect of legislation creating Exxon Valdez Oil Spill Trust, requiring the state trustees to submit trust expenditures to the legislature for appropriation and to comply with the Alaska Executive Branch Ethics Act, and the Alaska Open Meetings Act. These contingencies will be satisfied with the enactment of CSHB 484(JUD), which is also presently in the House Finance Committee.

HB 486 was introduced at the request of the House Judiciary Committee Settlement Subcommittee.

The subcommittee asked legislative legal counsel to review the settlement for potential conflicts with our state statutes and the Alaska State Constitution. The subcommittee also asked for suggestions regarding legislation that would help make the trust work within our existing constitutional framework and

CORRECTION

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

State of Alaska

House Majority Leader
COMMITTEES
HOUSE JUDICIARY
HOUSE RULES
HOUSE STATE AFFAIRS
SPECIAL COMMITTEE
MILITARY AND VET. AFFAIRS
LEGISLATIVE COUNCIL



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

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465-4968/4986
(SESSION)

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ANCHORAGE, AK 99503
(907) 561-7621

M E M O R A N D U M

DATE: April 6, 1992

TO: Representative Mike Navarre
Co-chair, House Finance Committee

FROM: Representative Max Gruenberg *MAX*

RE: CSHB 486 (JUD), "The Exxon Valdez Oil Spill Trust
Contingent Appropriation Bill"

I would very much appreciate it if you would schedule HB 486 for a hearing as soon as it is possible.

HB 486 appropriates the states interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust. This appropriation is contingent on the taking effect of legislation creating Exxon Valdez Oil Spill Trust, requiring the state trustees to submit trust expenditures to the legislature for appropriation and to comply with the Alaska Executive Branch Ethics Act, and the Alaska Open Meetings Act. These contingencies will be satisfied with the enactment of CSHB 484(JUD), which is also presently in the House Finance Committee.

HB 486 was introduced at the request of the House Judiciary Committee Settlement Subcommittee.

The subcommittee asked legislative legal counsel to review the settlement for potential conflicts with our state statutes and the Alaska State Constitution. The subcommittee also asked for suggestions regarding legislation that would help make the trust work within our existing constitutional framework and

improve the state's position in the event of a legal challenge to the settlement.

The advice of legal counsel to the subcommittee was that in order to place the state in the best position to defend itself against a state constitutional challenge to the structure of the Exxon spill settlement, the legislature must appropriate the state's interest in the settlement money to the trust, when that money is paid by Exxon.

If you have any questions please call me or my legislative assistant, Mark Handley, at 465-4986.

Thank you.

HB486.TXT

State of Alaska

House Majority Leader

COMMITTEES

HOUSE JUDICIARY

HOUSE RULES

HOUSE STATE AFFAIRS

SPECIAL COMMITTEE

MILITARY AND VET. AFFAIRS

LEGISLATIVE COUNCIL



Representative Max F. Gruenberg, Jr.

District 11

Spenard, Upper Midtown Anchorage

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(SESSION)

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M E M O R A N D U M

April 14, 1992

To: Representative Max Gruenberg
Chair, Settlement Subcommittee

From: Mark Handley *MH*

Re: Sectional Analysis of HB 486 (JUD), "The Exxon Valdez Oil
Spill Trust Contingent Appropriation Bill"

Section 1

Appropriates the states interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust. This appropriation is contingent on the taking effect of legislation recognizing the Exxon Valdez Oil Spill Trust, prohibiting the state trustees from approving trust expenditures unless the expenditure is made to a government agency, and in accordance with a legislative appropriation, and requiring that state trustees comply with the Alaska Executive Branch Ethics Act, and the Alaska Open Meetings Act.

Section 2

Provides for an immediate effective date.

HB486

SENATE FINANCE COMMITTEE REPORT

DATE: 5/10/92

FURTHER:

DATE TURNED INTO OFFICE: 5-12-92

The Finance Committee considered CS FOR HOUSE BILL NO. 486 (FINANCE)

"An Act making a contingent appropriation to the trust established for damages to natural resources affected by the March 24, 1989, Exxon Valdez oil spill; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

DO PASS:

Jim Duncan

1. *John Adams*

Co-Chair: Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

Al Adams, No Rec
John Adams, No Rec
John Adams, No Rec

2. _____

Co-Chair: Signature/Recommendation

CS FOR HOUSE BILL NO. 486 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/1/92
Referred: Rules

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act making a contingent appropriation to the trust established for damages to natural
2 resources affected by the March 24, 1989, Exxon Valdez oil spill; and providing for an
3 effective date."

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

5 * Section 1. (a) Contingent upon (b) of this section, the interest of the State of Alaska in the money
6 paid during fiscal years 1992 and 1993 by Exxon Corporation, Exxon Shipping Company, or Exxon
7 Pipeline Company, under the Agreement and Consent Decree in United States v. Exxon et al., and State
8 of Alaska v. Exxon, et al., United States District Court, District of Alaska, cases No. A91-082 Civ. and
9 A91-083 Civ., and not paid to the state or federal governments as reimbursements for expenses related
10 to the Exxon Valdez oil spill and incurred by either government on or before December 31, 1992, is
11 appropriated to the trust.

12 (b) The appropriation made by (a) of this section is contingent upon the taking effect of a bill
13 or bills passed by the Seventeenth Alaska State Legislature that

14 (1) recognize the trust;

1 (2) prohibit state agencies from expending money received from the trust except in
2 accordance with an appropriation made by law;

3 (3) require state officers designated as trustees of the trust to comply with AS 39.52 and,
4 in certain circumstances, with AS 44.62.310 - 44.62.312; and

5 (4) require the state officers designated as trustees of the trust to agree to expenditures
6 from the trust only if they are paid to an agency of the state or federal government or are for
7 administrative expenses of the trust and are consistent with the competitive principles of AS 36.30.

8 (c) In this section, "trust" means the trust established for natural resource damage recoveries
9 under the Memorandum of Agreement and Consent Decree entered into by the United States and the
10 state in settlement of claims to money received by the state and federal governments for injury, loss, or
11 destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill, and approved
12 by the court on August 28, 1991, in United States v. Alaska, United States District Court, case No. A91-
13 081 Civ.

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

State of Alaska

House Majority Leader

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HOUSE JUDICIARY
HOUSE RULES
HOUSE STATE AFFAIRS
SPECIAL COMMITTEE
MILITARY AND VET. AFFAIRS
LEGISLATIVE COUNCIL



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465-4968/4986
(SESSION)

3111 C STREET, SUITE 440
ANCHORAGE, AK 99503
(907) 561-7621

M E M O R A N D U M

DATE: May 9, 1992

TO: Senator Pat Pourchot
Chair, Senate Finance Committee

FROM: Representative Max Gruenberg /MAX

RE: CSHB 486 (FIN), "The Exxon Valdez Oil Spill Trust
Contingent Appropriation Bill"

I would very much appreciate it if you would schedule HB 486 for a hearing as soon as it is possible.

HB 486 appropriates the states interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust.

This appropriation is contingent on the taking effect of legislation containing the major substantive provisions of CSHB 484 (FIN).

HB 486 was introduced at the request of the House Judiciary Committee Settlement Subcommittee.

The advice of legal counsel to the subcommittee was that in order to place the state in the best position to defend itself against a state constitutional challenge to the structure of the Exxon spill settlement, the legislature must appropriate the state's interest in the settlement money to the trust, when that money is paid by Exxon.

The Department of Law Supports CSHB 486 (FIN).

If you have any questions please call me or my legislative assistant, Mark Handley, at 465-4986.

Thank you.

HB486.TXT\MTH

State of Alaska

House Majority Leader
COMMITTEES
HOUSE JUDICIARY
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(SESSION)

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(907) 561-7621

MEMORANDUM

May 5, 1992

To: Representative Max Gruenberg
Chair, Settlement Subcommittee

From: Mark Handley

Re: Sectional Analysis of HB 486 (FIN), "The Exxon Valdez Oil
Spill Trust Contingent Appropriation Bill"

Section 1

Appropriates the state's interest in the the Exxon Valdez oil spill settlement money paid by Exxon in FY '92 and FY '93 to the Exxon Valdez Oil Spill Trust. This appropriation is contingent on the taking effect of legislation (1) recognizing the Exxon Valdez Oil Spill Trust; (2) providing that state agencies may not expend trust money, except in accordance with an appropriation; (3) requiring that state trustees comply with the Alaska Executive Branch Ethics Act, and in certain circumstances, comply with the Alaska Open Meetings Act; and (4) requiring that all trust expenditures are spent through state or federal agencies, except for expenditures related to administration of the trust which are made in in a manner that is consistent with the competitive principles of our state procurement code.

Section 2

Provides for an immediate effective date.

HB486.SEC\MTH



U.S. Department of Justice

Environment and Natural Resources Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 8 1992

The Honorable Charles E. Cole
Attorney General
State of Alaska
P.O. Box 110300 - State Capitol
Juneau, Alaska 99811


Dear General Cole:

Thank you for seeking our views on House Bills 484 and 486, recently introduced in the Alaska State Legislature. We appreciate the opportunity to comment on what we believe is a matter of considerable importance to the federal trustees. We also appreciate your efforts to ensure that the spirit of the settlement terms and process are preserved. We have no objections, legal or otherwise, to the substitute legislation as written.

We did have concerns about the previous version of Bill No. 484, which provided, inter alia, that a state trustee could not authorize an expenditure of money from the trust unless the expenditure was in accordance with an appropriation by the state legislature, and which appeared to provide that, under certain circumstances, amounts paid as reimbursements to the United States were subject to the appropriations process. These provisions, in our view, were contrary to principles of comity, as well as to the intentions of the State and Federal governments when they entered both the Memorandum of Agreement and the Consent Decree with Exxon Corporation, and Exxon Shipping Company. We also believe that the state appropriations process required by the earlier bill could have produced results inconsistent with the provisions of the Consent Decree, as approved by a federal court, which clearly provides that all decisions regarding expenditure of funds are in the hands of the trustees.

It appears that all of these concerns have been met. Again, we appreciate your efforts to address them. Please do not hesitate to contact me to discuss this further.

Sincerely,


Barry M. Hartman
Acting Assistant Attorney General

STATE OF ALASKA
WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 6, 1992

Honorable Max Gruenberg
Alaska House of Representatives
State Capitol, Rm. 216
Juneau, AK 99801-1182

Re: HB 484 and 486

Dear Representative Gruenberg:

I wish to express my support for the passage of House Bill No. 484 and the accompanying appropriation bill, House Bill No. 486. The version of House Bill 484 offered by the House Finance Committee (CSHB 484(Fin)) would enact procedures for the expenditure of money received by the trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of the claims arising out of the Exxon Valdez oil spill.

The bill makes the existing program review procedures of the Executive Budget Act a part of the process for state agencies to receive and expend receipts of the trust. If this bill is enacted, the Legislative Budget and Audit Committee would become the monitor for appropriations of trust receipts to state agencies. I initially opposed this approach but, after consulting with Representative Larson and you, I now believe that the involvement of this committee of the legislature will enable the legislature to have the involvement which it views as necessary.

House Bill No. 486 makes technical appropriations of the money received under the Memorandum of Agreement and Consent Decree to the trust. These appropriations are conditioned upon the enactment of the spending procedures enacted in House Bill No. 484. I believe that these bills will foreclose legal challenges to the spending authority of the trustees by assuring that the money received by the trust and the expenditures from trust receipts are authorized in the manner required by the Alaska Constitution.

I am also authorized to say that the Department of Justice has no objections to these legislative proposals.

REPLY TO:

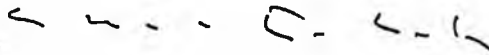
- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

Honorable Max Gruenberg
Alaska House of Representatives
Our file:

May 6, 1992
Page 2

I appreciate the cooperation and understanding shown by Representative Larson and you and your respective staffs for my concerns relating to these bills. I urge your favorable consideration of these bills.

Sincerely yours,



Charles E. Cole
Attorney General

CEC:JLB:tg

HB4809

(11)

HOUSE COMMITTEE REPORT

Date Referred: February 26, 1992

FURTHER REFERRALS:

Date of Committee Action: 3/09/92

The FINANCE Committee considered:

HB 489

HOUSE BILL NO. 489

BOILER, PRESSURE VESSEL & ELEVATOR SAFETY

"An Act relating to the safety requirements for boilers, unfired pressure vessels, and elevators; and providing for an effective date."

RECOMMENDATIONS:

[] the same title
be replaced with _____ [] a new title

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

zero fiscal note(s) DOL 2/26/92

SIGNING <u>DO PASS</u>	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Mike Savare</i> <small>Savarre</small>	<input checked="" type="checkbox"/>	<i>Eileen S. Wether</i> <small>Wether</small>		<input checked="" type="checkbox"/>	
<i>Mark Boyer</i> <small>Boyer</small>	<input checked="" type="checkbox"/>	<i>Lay Brown</i> <small>Brown</small>		<input checked="" type="checkbox"/>	
<i>Kosma Roponen</i> <small>Roponen</small>	<input checked="" type="checkbox"/>	<i>Geoff Jacko</i> <small>Jacko</small>		<input checked="" type="checkbox"/>	
<i>R. Phillips</i> <small>R. Phillips</small>	<input checked="" type="checkbox"/>	<i>Dorothy Barnes</i> <small>Barnes</small>		<input checked="" type="checkbox"/>	
<i>Ben Sheng</i> <small>Sheng</small>	<input checked="" type="checkbox"/>	<i>Ronald J. Larson</i> <small>Larson</small>		<input checked="" type="checkbox"/>	
<i>J. Wilmer</i> <small>Wilmer</small>	<input checked="" type="checkbox"/>				

Mike Savare, E.L. Phillips

FISCAL NOTE

STATE OF ALASKA
1992-LEGISLATIVE SESSION

BILL NO : HB 489

Revision Date: _____
 Title: "An Act relating to the safety requirements for boilers, unfired pressure vessels...."
 Sponsor: House Labor & Commerce
 Requestor: House Labor & Commerce

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: _____
Mechanical Inspection
COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Randy Carr, Acting Director Phone: 264-2452
 Division: Labor Standards & Safety Date: 2/20/92
 Approved by Commissioner: John Abshire, Acting Commissioner
 Agency: Department of Labor Date: 2/20/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor

HOUSE BILL NO. 489

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/18/92

Referred: Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the safety requirements for boilers, unfired pressure vessels, and
2 elevators; and providing for an effective date."

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

4 * Section 1. AS 18.60.200 is amended by adding a new subsection to read:

5 (b) A person who installs a boiler or unfired pressure vessel shall notify the Department
6 of Labor of the installation, using a form provided by the department.

7 * Sec. 2. AS 18.60.315 is amended to read:

8 Sec. 18.60.315. INSPECTION STANDARDS. The 1991 [1989] edition of the National
9 Board Inspection Code Manual for Boiler and Pressure Vessel Inspectors constitutes the
10 minimum boiler and pressure vessel inspection standard of the state for boilers and pressure
11 vessels after they have received their initial inspection certificates from the Department of Labor.
12 The Department of Labor may adopt regulations for the maximum practical implementation of
13 the manual and may grant an exception from a specific provision of the manual when the
14 department determines that the implementation of the provision would be impractical.

1 * Sec. 3. AS 18.60.340(a) is amended to read:

2 (a) If, upon inspection, a boiler or an unfired pressure vessel complies with the
3 regulations of the Department of Labor, the owner or user shall pay to the department a
4 certificate fee to be established by regulation by the commissioner of labor. The Department of
5 Labor shall issue to the owner or user an inspection certificate showing the date of inspection
6 and specifying the maximum pressure under which the boiler or unfired pressure vessel may be
7 operated. The [CERTIFICATES SHALL BE POSTED UNDER GLASS IN THE ROOM
8 CONTAINING THE BOILER OR UNFIRED PRESSURE VESSEL INSPECTED. IF THE
9 BOILER OR UNFIRED PRESSURE VESSEL IS NOT LOCATED INSIDE THE BUILDING,
10 THE] certificate shall be posted in a location convenient to the boiler or unfired pressure vessel
11 [OR IN THE CASE OF A PORTABLE BOILER OR UNFIRED PRESSURE VESSEL THE
12 CERTIFICATE SHALL BE KEPT IN A METAL CONTAINER FASTENED TO THE BOILER
13 OR VESSEL OR IN A TOOL BOX ACCOMPANYING THE BOILER OR UNFIRED
14 PRESSURE VESSEL].

15 * Sec. 4. AS 18.60.800(a) is amended to read:

16 (a) Except as provided in this subsection, the 1990 [1987] edition of the American
17 National Standards Institute Safety Code for Elevators and Escalators (ANSI/ASME A17.1)
18 published by the American Society of Mechanical Engineers is adopted as the minimum elevator
19 safety code in the state. Section 1001.1, Inspection and Test Periods, and Part XXII, Shipboard
20 Elevators, of the American National Standards Institute Safety Code for Elevators and Escalators,
21 are [IS] not adopted as a part of the minimum elevator safety code in the state.

22 * Sec. 5. AS 18.60.330(b) is repealed.

23 * Sec. 6. This Act takes effect July 1, 1992.

SLC

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB489

Revision Date:

Dept: University

Title: "An Act relating to the safety requirements for boilers, unfired pressure vessels, an elevators, and providing for an effective date."

BRU: All

Component: All

Sponsor: House Labor and Commerce

Requestor:

Component Serial No. 730

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)						
GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Marsha Hubbard, Director
Division: Statewide Budget Office

Phone: 474-7593
Date: 3/5/92

Approved by: Brian Rogers, Vice President for Finance
Agency: University of Alaska

Date: 3/5/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

BILL NO: House Bill No. 489

DATE: February 21, 1992

TITLE: "An Act relating to the safety requirements for boilers, unfired pressure vessels, and elevators; and providing for an effective date."

CONTACT: Arbe Williams
465-2700

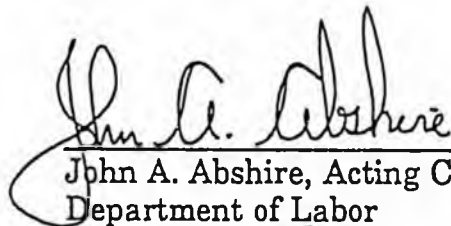
House Bill No. 489, "An Act relating to the safety requirements for boilers, unfired pressure vessels, and elevators; and providing for an effective date." enables better management of inspection schedules for boilers and unfired pressure vessels and implements the most current set of nationally adopted standards for boilers and pressure vessels and for elevators and escalators.

The bill amends the law to require that the Department of Labor is notified of the installation of a boiler or unfired pressure vessel and repeals the requirement that the State inspect boilers and unfired pressure vessels during installation. Currently, there is no assurance that the Department is informed of the installation. In addition, there is a current backlog of approximately 5,000 inspections. These amendments would insure that the Department of Labor is provided with information concerning the installation of boilers or unfired pressure vessels and allow the Department to schedule inspections more efficiently.

House Bill No. 489 also amends AS 18.60.315 to adopt the most current edition of the manual that sets the inspection standard for the State for boiler and pressure vessels and amends AS 18.60.800(a) to adopt the most current edition of the safety code for elevators and escalators. The amendment excludes a new section of the code which provides for the inspection of elevators on offshore drilling rigs and on ships; these inspections are within the jurisdiction of the U.S. Coast Guard.

The bill also removes some specific inspection certificate posting requirements in order to address practical problems that arise in attempting to meet those requirements for a certificate that covers more than one boiler or pressure vessel.

The Department of Labor supports this legislation.


John A. Abshire, Acting Commissioner
Department of Labor

POSITION PAPER/Department of Labor

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700

FAX: (907) 465-2784

February 27, 1992

The Honorable Mike Navarre
Co-Chair, Finance Committee
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

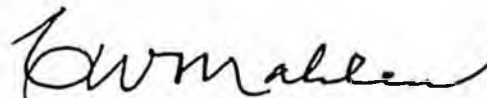
Dear Representative Navarre:

House Bill No. 489, "An Act relating to the safety requirements for boilers, unfired pressure vessels, and elevators..." was moved from the House Labor & Commerce Committee on Tuesday, February 25, and has been referred to the House Finance Committee. The Department supports this legislation and I am requesting that you schedule a hearing as soon as possible.

The bill enables better management of inspection schedules for boilers and unfired pressure vessels and implements the most current set of nationally adopted standards for boilers and pressure vessels and for elevators and escalators. Department staff are available to respond to any questions the committee may have concerning this bill.

Thank you for your consideration of my request. Please do not hesitate to contact my Special Assistant, Arbe Williams if you would like additional information.

Sincerely,



Charles W. Mahlen
Commissioner

CWM:kh

HB492

(11)
Date Referred: March 27, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 5/4/92

The FINANCE Committee considered:

HB 492

HOUSE BILL NO. 492

ANCSA VILLAGE CORP: LOAN ELIGIBILITY

"An Act relating to collateral offered by village corporations organized under the Alaska Native Claims Settlement Act for purposes of eligibility for certain state loan and loan guarantee programs."

RECOMMENDATIONS:

be replaced with CS HB 492 (L+C) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) D CED 3/27/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Machean ^{Machean}	✓	Barbara Barnes ^{Barnes}		X	
Mike Spavone ^{Spavone}	✓	Barbara Barnes ^{Sharp}		X	
Mark Boyer ^{Boyer}	X	RECEIVED: R Phillips		✓	
Tan Brown ^{Brown}	✓	Ulmer		X	
Thomas Koponen ^{Koponen}	✓				
Arnold J. Larson ^{Larson}	X				

Mike Spavone EP Machean
CHAIRMAN'S SIGNATURE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

FISCAL NOTE

No. 1
Bill Version: CSHB 492(L&C)
(H) Publish Date: 3-27-92

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: ANCSA Village Corp. Loan Eligibility

BRU: Banking, Securities & Corporations

Sponsor: Rep. Maclean

Component: _____

Requestor: House Labor & Commerce

COMPONENT SERIAL NO.	1	2	3	3
----------------------	---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND RESOURCE:	0	0	0	0	0	0
-------------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521
 Division: Banking, Securities & Corporations Date: _____
 Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*
 Agency: Department of Commerce & Economic Development Date: 3.24.92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

Page 1 of 1

CS FOR HOUSE BILL NO. 492 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/27/92
Referred: Finance

Sponsor(s): REPRESENTATIVES MACLEAN, Lincoln, Ivan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to collateral offered by village corporations organized under the Alaska
2 Native Claims Settlement Act for purposes of eligibility for certain state loan and loan
3 guarantee programs."

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

5 * Section 1. PURPOSE. The purpose of this Act is to give explicit recognition to use of the
6 anticipated natural resource revenue payable under 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native Claims
7 Settlement Act) that is subject to distribution under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims
8 Settlement Act) by regional corporations to village corporations in order to permit the village
9 corporations to engage in economic development activities under the following state loan and loan
10 guarantee programs:

- 11 (1) loans made from the bulk fuel revolving loan fund under AS 44.83.600 - 44.83.650;
12 (2) loan guarantees provided by the business assistance program of the Alaska Industrial
13 Development and Export Authority under AS 44.88.500 - 44.88.599;
14 (3) tourism revolving fund loans under AS 45.90;

- 1 (4) loans guaranteed under the fishery product revolving loan guarantee fund of AS 45.92;
2 (5) loans guaranteed under the forest products business loan guarantee program of
3 AS 45.94; and
4 (6) small business loans under AS 45.95.

5 * Sec. 2. AS 44.83.610 is amended by adding a new subsection to read:

6 (d) If the loan applicant is a village corporation established under 43 U.S.C. 1601 - 1642,
7 as amended (Alaska Native Claims Settlement Act), the Alaska Energy Authority or its contractor
8 shall consider natural resource revenue payable under 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native
9 Claims Settlement Act) and subject to distribution by the regional corporation to the village
10 corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement Act) as
11 acceptable collateral for purposes of making the loan.

12 * Sec. 3. AS 44.88.535(a) is amended to read:

13 (a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

14 (1) loan

15 (A) is commercially reasonable;

16 (B) contains amortization provisions satisfactory to the authority;

17 (C) is secured by adequate collateral; however,

18 (i) if the loan applicant is a village corporation established
19 under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement
20 Act), the authority may consider natural resource revenue payable under
21 43 U.S.C. 1606(i) (sec. 7(i), Alaska Native Claims Settlement Act) and subject
22 to distribution by the regional corporation to the village corporation under
23 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement Act) as adequate
24 collateral for purposes of making the loan; and

25 (ii) the authority may waive on a case-by-case basis the
26 requirement of collateral for a loan guarantee of \$50,000 or less for which the
27 proposed loan amortization period does not exceed five years, but the ability to
28 waive the requirement of this subparagraph or the grant of a waiver does not
29 prevent the financial institution that holds the loan guaranteed by the authority
30 from requiring reasonable collateral for the loan;

31 (2) net cash flow from the borrower provides adequate coverage for the debt

- 1 service on the loan;
- 2 (3) term of the loan does not exceed 20 years;
- 3 (4) loan is originated with and serviced by a state chartered or federally chartered
- 4 financial institution;
- 5 (5) portion of the loan not guaranteed by the authority is held by the originating
- 6 financial institution or another financial institution approved by the authority;
- 7 (6) loan is made to a business with a majority interest held by state residents; and
- 8 (7) loan guarantee provides a benefit to the borrower.

9 * Sec. 4. AS 45.90.030 is amended by adding a new subsection to read:

10 (g) For purposes of (b) of this section, if the loan applicant is a village corporation
11 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
12 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
13 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
14 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
15 Act).

16 * Sec. 5. AS 45.92.050 is amended by adding a new subsection to read:

17 (d) For purposes of (a)(2) of this section, if the loan applicant is a village corporation
18 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
19 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
20 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
21 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
22 Act).

23 * Sec. 6. AS 45.94.050 is amended by adding a new subsection to read:

24 (d) For purposes of (a)(2) of this section, if the loan applicant is a village corporation
25 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
26 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
27 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
28 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
29 Act).

30 * Sec. 7. AS 45.95.020 is amended by adding a new subsection to read:

31 (f) For purposes of (a) of this section, if the loan applicant is a village corporation

1 established under 43 U.S.C. 1601 - 1642, as amended (Alaska Native Claims Settlement Act),
2 "acceptable collateral" includes natural resource revenue payable under 43 U.S.C. 1606(i) (sec.
3 7(i), Alaska Native Claims Settlement Act) and subject to distribution by the regional corporation
4 to the village corporation under 43 U.S.C. 1606(j) (sec. 7(j), Alaska Native Claims Settlement
5 Act).

SPONSOR STATEMENT

CS HB 492 (L&C)

Representative Eileen P. MacLean

HB 492 gives recognition to anticipated 7(i) revenues by village corporations as a source of collateral for participation in specific state loan and loan guarantee programs for economic development.

Under ANCSA, regional corporations are required to share 70% of net revenues from developed timber and subsurface resources among themselves and with the village corporations. These shared resources have been an important source of income for corporations without resource revenues of their own.

Although many village corporations do not have excess funds for development projects, some will be able to manage their funds so as to be able to plan for future projects. HB 492 will be helpful for those village corporations that have some flexibility in their overall financial planning process.

Specifically, HB 492 states that 7(i) revenue distributed to village corporations shall be considered as acceptable collateral for the purposes of determining eligibility in various state loan and loan guarantee programs.

Nothing in state law currently precludes village corporations from using 7(i) revenue as collateral for state loans. However, because 7(i) revenue can be unpredictable and difficult to determine, they have not been specifically identified in state statutes as collateral. This bill is intended to raise the awareness of the availability of 7(i) revenue as collateral and to encourage village corporations to consider 7(i) revenue for economic development projects.

THE VILLAGE CORPORATION:

A VEHICLE FOR RURAL ECONOMIC DEVELOPMENT

By

Rosita Worl

The primary stimulus for economic development in rural Alaska has generally been the result of resource extraction activities initiated by non-local companies or through the expenditures of state and local governments particularly during the oil-rich days. The activities stimulated economic growth in rural communities that were of limited duration and opportunities for rural residents.

The 200 locally-based village corporations created under the Alaska Native Claims Settlement Act offer the potential for long term economic development in Rural Alaska. They are dispersed throughout Alaska, and collectively they own approximately 22 million acres of surface lands much of which is generally adjacent to their villages. Most of the village corporations have had some business experience with varying results during the past decade. Generally the businesses are small with limited employment.

These village receive a portion of their revenues from distributions made by the Native regional corporations under Section 7(i) of the Alaska Native Claims Settlement Act. Section 7(i) requires regional corporations to pay out 70 percent of their profits from timber and sub-surface development to other regional and village corporations. The amount a village corporation receives is dependent on its shareholder population base. More often the 7(i) revenues are used to sustain corporate general and administrative costs. While the amounts vary and are generally small, they represent a steady stream of income. Sealaska has paid nearly \$60 million into the 7(i) stream, CIRI slightly more than that amount with NANA and Doyon also important contributors. As more regional corporations expand into timber and sub-surface development activities, village corporations will continue to receive 7(i) revenues.

The significance of the village 7(i) distributions became apparent to me when CIRI moved to escrow certain 7(i) payments in 1988/1989. The State had initiated a suit against the federal government contesting CIRI's rights to certain oil revenues, and CIRI moved to escrow the 7(i) monies until the issue was resolved. I was serving as Governor Cowper's Special Staff Assistant for Rural/Native Affairs. In that capacity, several village corporations contacted me outlining the dilemma they faced without the 7(i) revenues. I conducted an analysis of the amounts the villages would have received from CIRI's 7(i) payment, and the village corporations informed me of their use of the 7(i) monies.

For the purpose of this discussion, the point is that the village corporations appeared to use the 7(i) revenues to sustain their

headquarters. I thought it was unfortunate that they didn't leverage the 7(i) revenues to support their entry into active business investments. The single 7(i) payment is probably not adequate to allow entry into a business. However, a village corporation might be able to initiate a venture were they able to borrow against future 7(i) revenues.

As a board member of a regional corporation, I was recently involved in a process that allowed another regional corporation to use its 7 (i) revenues to secure a significant loan (in the \$10 million range). Several regional corporations signed a collateral note. The loan has been or is near repaid. While this 7(i) transaction was conducted through an agreement among the regional corporations, it represents a model that could be applied to village corporations to support their entry into business ventures.

It is more than likely that most village corporations lack investment and growth funds to enter larger businesses. Data are not available to project the amount of 7(i) revenues that village corporations will receive. However, given the nature of the sporadic payments of 7(i) monies to village corporations, financial institutions would probably not lend it funds for an investment activity without further assurances or a collateral. It is in this area that the State might explore how it would be able to provide direct assistance and business capital for village corporations.

If we accept the assumption that economic development in Rural Alaska that provides long term opportunities for residents will occur with a locally based corporation, the State would do well to work with village corporations. They have a corporate structure in place, a mixed history of business experience, and own resources that at this time have an unknown value.



The Aleut Corporation

February 25, 1992

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
Box V
Juneau, Alaska 99811

Dear Representative ^{Eileen} MacLean:

Thank you for sending copies of your bills concerning the ANCSA. We have reviewed the proposed bills and have no comments to further improve them.

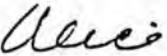
We have such a small staff that it is difficult to keep up with what is happening in the State Legislature, so I was quite pleased to receive your letter and request for comments.

The Draft Bill which would "recognize the use of anticipated 7(i) revenue by village corporations in order to encourage village corporations to engage in economic development programs in state loan and loan guarantee programs" is an excellent idea. Many of the villages in the Aleut region are struggling to obtain State funds for economic development projects, and this Draft Bill would certainly pave the way for obtaining the available loans.

The Aleut Corporation supports HB 315 to continue the restrictions on the alienability of ANCSA stock indefinitely. As a small corporation, the lifting of those restrictions could pose a serious threat to the future of our Corporation.

I wish you success in your efforts to assist the ANCSA corporations and thank you for the time you have taken to keep us informed. I know how very busy you are.

Sincerely,


Alice Petrivelli
President

are continuing major business expansions and active participation in the oil and gas industry. They may not consider securities a major source of long term earnings.

Our review of the combined asset base of the regional corporations leaves one big question unanswered: Assuming that the IRS ultimately approves most of the corporations' NOL sales, what will CIRI, Doyon, and Sealaska do with the combined \$225 million they are holding in escrow?⁸ What they choose to do with that huge amount of cash will have a major effect on the future finances of each.

Financial Results

We've seen a glimpse of the business strategies the corporations used through 1990. Now we look at how those strategies translated into income. We consider four major sources of income from 1974 through 1990: (1) business operations, (2) securities, (3) resource revenues, and (4) proceeds from sales of net operating losses (NOLs). First we talk in some detail about the corporations special sources of income—resource revenues and proceeds from NOL sales. Then we show how all four sources added up to total net income produced through 1990.

Special Sources of Income

RESOURCE REVENUES

All the corporations have looked for natural resources on their lands, and a few have been very successful in developing them. Resource development is risky, partly because extracting resources in Alaska is expensive and resource prices can change quickly. In many cases, the corporations chose to limit their risk by leasing their lands.

The corporations' success in developing natural resources is reflected in the revenues shared under sections 7(i) and 7(j) of ANCSA. Congress recognized that some regions would have more natural resources than others. So it required the regional corporations to share 70 percent of net revenues from developed timber and subsurface resources among themselves and with the village corporations and urban and at-large shareholders. The example box explains the process.

Figure 5 shows how net resource revenues were generated and shared among the regional and village corporations from 1976 through 1991.⁹

- The regional corporations generated \$398 million in net resource revenues from 1976 through 1991.

Revenue Sharing Process

To make the numbers simple, we assume a hypothetical corporation with 20 percent of total shareholders. The shares of the actual regional corporations depend on their percentages of total shareholders.

The hypothetical corporation first subtracts its expenses to determine net revenues, and then keeps 30 cents of each dollar.¹⁰ The remaining 70 cents is put into a pool which is divided among all twelve regions. With twenty percent of the shareholders, the hypothetical corporation gets 20 percent of this pool (14 cents). The other eleven corporations get the rest (56 cents). Next, all twelve corporations pay half of their shares of the pool money to their village corporations and to their urban and at-large shareholders. The other 11 regional corporations pay their village corporations 28 cents and keep 28 cents. Likewise, the hypothetical corporation splits its 14 cents in half, paying 7 cents to its village corporations and keeping 7 cents.

At the end, the hypothetical corporation keeps 37 cents—its original 30 cents, plus its share of the other 70 cents. The village corporations in the hypothetical region receive 7 cents. The other eleven regional corporations get 28 cents, and their village corporations get 28 cents.

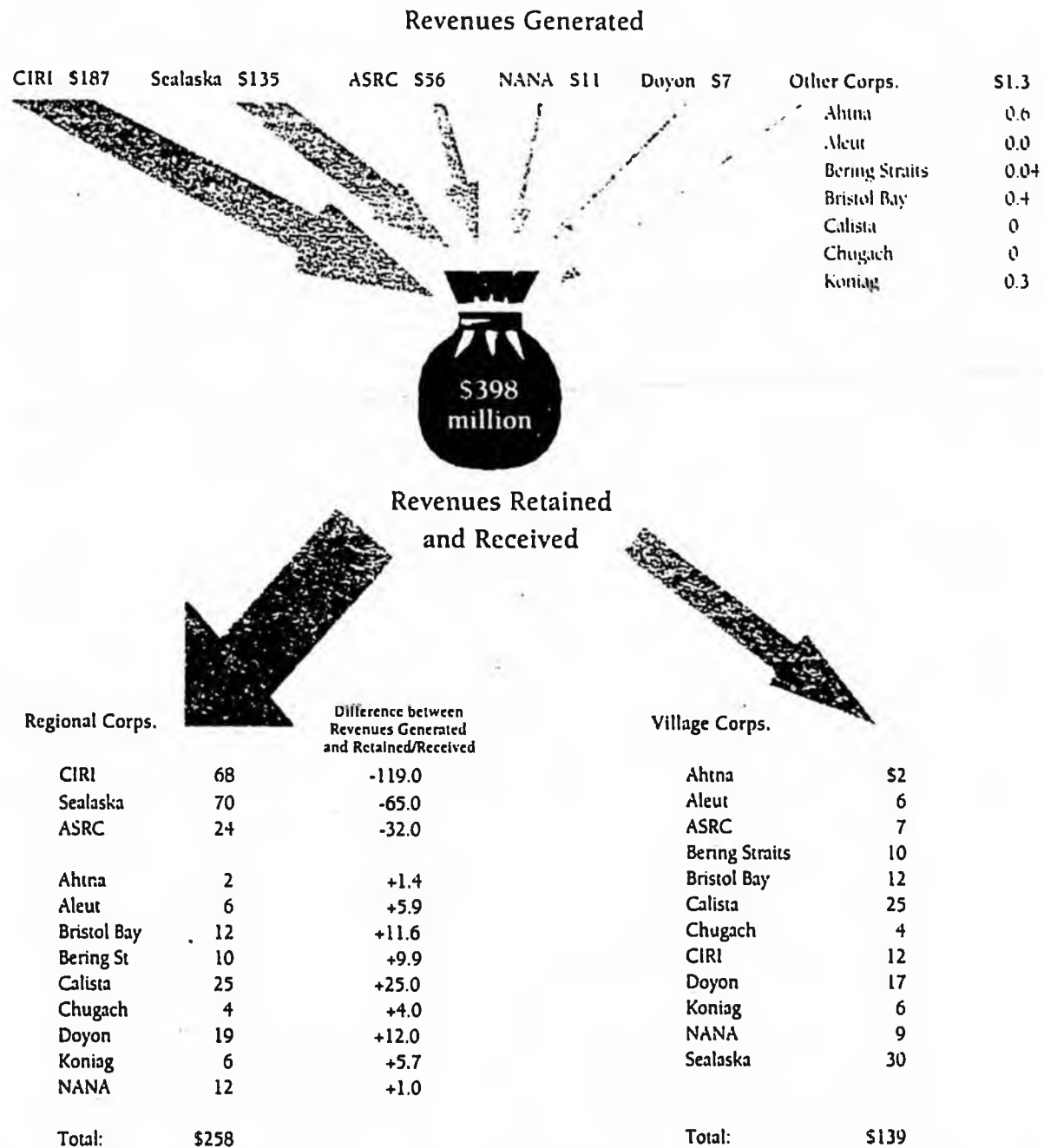
- CIRI, Sealaska, and Arctic Slope (ASRC) generated 95 percent of the total net resource revenues through 1991. CIRI contributed \$187 million, Sealaska \$135 million, and ASRC \$56 million. To get the money, CIRI and ASRC sold oil and gas leases; Sealaska sold timber.

- After sharing, the regional corporations kept \$258 million (or 65 percent) of net resource revenues and the village corporations received \$139 million (35 percent).

- Shared resource revenues have been an important source of income for the corporations without resource revenues of their own. Aleut, Bristol Bay, Bering Straits, Calista, Chugach, and Koniag generated very little or no resource revenues but collected more than \$60 million.

- ASRC has collected over \$30 million in revenues from an oil lease in the Arctic National Wildlife Refuge—but it doesn't have to share them. ASRC acquired subsurface rights in ANWR under a 1984 land trade with the federal government. In making the trade, ASRC did not give up any resources subject to 7(i) sharing—and the 7(i) settlement agreement (signed by all the corporations in 1982) says that if no 7(i) resources are given up in a trade, no 7(i) obligations apply to the lands received. So if other corporations hope to benefit from any future development in ANWR, they will have to negotiate their own trades (and several are currently attempting to do so).

Figure 5. Estimated Net Resource Revenues Generated and Received by Corporations, 1976-1991
(In millions of dollars)



Source: Estimated by author based on receipts data provided by CIRI, and cross-checked with available annual report data. Actual amounts may differ due to the timing of cash payments and changes over time in regional enrollment percentages.

Revenues Generated are net resource revenues (revenues after expenses are subtracted) generated within each region from 1976 through fiscal year 1991 and subject to the sharing provisions of ANCSA sections 7(i) and 7(j)

Revenues Retained and Received are the final disposition of the generated revenues. Only regional corporations generate revenues subject to 7(i) distribution. Village corporations and urban and at-large shareholders receive a portion of those revenues. Regional corporations retain a portion of 7(i) revenues they generate and receive shares from other corporations.

HB505

(11)

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date Referred: March 20, 1992

Date of Committee Action: 4/22/92

The FINANCE Committee considered:

HB 505

HOUSE BILL NO. 505

FISHERY ALLOCATION: GUIDED SPORT FISHERY

"An Act authorizing the Board of Fisheries to allocate fishery resources to the guided sport fishery."

RECOMMENDATIONS:

be replaced with CSHB 505 (FIN)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note HFC 4/22/92

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP Maclean	✓	Ray Brown		✓	
Mike Savane	✓	Patricia & James		X	
Mark Bouyer	X	(2000 E.C. 100)	✓		
Robert	✓	Ronald J. [unclear]		X	
Robert [unclear]	X	Bob [unclear]	X		
John Almer	X				

Mike Savane EP Maclean
CHIEF CLERK SIGNATURE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHR 505 (FIN)

Revision Date: _____ Department Affected: FISH AND GAME
 Title: FISHERY ALLOCATION: GUIDED SPORT BRU: SPORT FISH
 Component: SPORT FISHERIES
 Sponsor: REPRESENTATIVE MACKIE
 Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Co-Chair Eileen MacLean *Eileen MacLean* Phone: 465-4835
Co-Chair Mike Navarre *Mike Navarre* Phone: 465-3779
 Division: House Finance Committee Date: 4/22/92

Approved by Commissioner: _____ Date: _____
 Agency: _____

CS FOR HOUSE BILL NO. 505 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MACKIE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the guided sport fishery, regulation of sport fishermen, allocation of
2 fishery resources, and the definition of 'fishery.'"

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

4 * Section 1. AS 16.05.251(a) is amended to read:

5 (a) The Board of Fisheries may adopt regulations it considers advisable in accordance
6 with the Administrative Procedure Act (AS 44.62) for

7 (1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the
8 state over which it has jurisdiction, subject to the approval of the legislature;

9 (2) establishing open and closed seasons and areas for the taking of fish; if
10 consistent with resource conservation and development goals, the board may adopt regulations
11 establishing restricted seasons and areas necessary for persons 60 years of age and older to
12 participate in sport, personal use, or subsistence fishing;

13 (3) setting quotas, bag limits, harvest levels, and sex and size limitations on the
14 taking of fish;

1 (4) establishing the means and methods employed in the pursuit, capture, and
2 transport of fish;

3 (5) establishing marking and identification requirements for means used in pursuit,
4 capture, and transport of fish;

5 (6) classifying as commercial fish, sport fish, guided sport fish, personal use fish,
6 subsistence fish, or predators or other categories essential for regulatory purposes;

7 (7) watershed and habitat improvement, and management, conservation, protection,
8 use, disposal, propagation, and stocking of fish;

9 (8) investigating and determining the extent and effect of disease, predation, and
10 competition among fish in the state, exercising control measures considered necessary to the
11 resources of the state;

12 (9) prohibiting and regulating the live capture, possession, transport, or release
13 of native or exotic fish or their eggs;

14 (10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;

15 (11) establishing the times and dates during which the issuance of fishing licenses,
16 permits, and registrations and the transfer of permits and registrations between registration areas
17 is allowed; however, this paragraph does not apply to permits issued or transferred under
18 AS 16.43;

19 (12) regulating commercial, sport, guided sport, subsistence, and personal use
20 fishing as needed for the conservation, development, and utilization of fisheries;

21 (13) requiring, in a fishery, observers on board fishing vessels, as defined in
22 AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c),
23 after making a written determination that an on-board observer program

24 (A) is the only practical data-gathering or enforcement mechanism for that
25 fishery;

26 (B) will not unduly disrupt the fishery;

27 (C) can be conducted at a reasonable cost; and

28 (D) can be coordinated with observer programs of other agencies,
29 including the National Marine Fisheries Service, North Pacific Fishery Management
30 Council, and the International Pacific Halibut Commission;

31 (14) establishing nonexclusive, exclusive, and superexclusive registration and use

1 areas for regulating commercial fishing;

2 (15) regulating resident or nonresident sport fishermen as needed for the
3 conservation, development, and utilization of fishery resources.

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

5 (e) The Board of Fisheries may allocate [SHALL ESTABLISH CRITERIA FOR THE
6 ALLOCATION OF] fishery resources among personal use, sport, guided sport, and commercial
7 fisheries. The board shall adopt [FISHING. THE] criteria for the allocation of fishery
8 resources and shall use the criteria [MAY,] as appropriate to particular allocation decisions.
9 The criteria may [,] include factors such as

10 (1) the history of each personal use, sport, guided sport, and commercial fishery;

11 (2) the number of residents and nonresidents who have participated in each fishery
12 in the past and the number of residents and nonresidents who can reasonably be expected to
13 participate in the future;

14 (3) the importance of each fishery for providing residents the opportunity to
15 obtain fish for personal and family consumption;

16 (4) the availability of alternative fisheries resources;

17 (5) the importance of each fishery to the economy of the state;

18 (6) the importance of each fishery to the economy of the region and local area
19 in which the fishery is located;

20 (7) the importance of each fishery in providing recreational opportunities for
21 residents and nonresidents.

22 * Sec. 3. AS 16.05.940(12) is repealed and reenacted to read:

23 (12) "fishery" means a specific administrative area in which a specific fishery
24 resource is taken with a specific type of gear; however, the Board of Fisheries may designate a
25 fishery to include more than one specific administrative area, type of gear, or fishery resource;
26 in this paragraph

27 (A) "gear" means the specific apparatus used in the harvest of a fishery
28 resource; and

29 (B) "type of gear" means an identifiable classification of gear and may
30 include

31 (i) classifications for which separate regulations are adopted by the

1 Board of Fisheries or for which separate gear licenses were required by former
2 AS 16.05.550 - 16.05.630; and

3 (ii) distinct subclassifications of gear such as "power" troll gear
4 and "hand" troll gear or sport gear and guided sport gear;

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 505 (RE)

Revision Date: 2/18/92

Department Affected: Fish and Game

Title: Fishery allocation: guided sport

BRU: Sport Fish

fishery

Component: Sport Fisheries

Sponsor: Representative Mackie

Requestor: House Resources
Expenditures/Revenues: (Thousands of Dollars)

COMPONENT SERIAL NO.

4	6	4
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OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	63.0	63.0	63.0	63.0	63.0	63.0
TRAVEL	3.0	3.0	3.0	3.0	3.0	3.0
CONTRACTUAL	30.0	30.0	30.0	30.0	30.0	30.0
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
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	100.0	100.0	100.0	100.0	100.0	100.0

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

GENERAL FUND	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
FEDERAL FUNDS	75.0	75.0	75.0	75.0	75.0	75.0
OTHER FUND SOURCE: 1024	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
1024 is Fish and Game Fund. See attached sheet for analysis.

Prepared By: Rocky Holmes

Phone: 465-4180

Division: Division of Sport Fish

Date: 3/9/92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game

Date: 3/9/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. OSC., & Impacted Agency(ies).

ANALYSIS OF FISCAL NOTE FOR HB 505

This bill provides the mechanism for specific fishery allocations to the guided sport industry. This bill would not, in and of itself, result in any increased costs to the Division of Sport Fish. However, this bill does define another gear group, and it lists specific criteria that the Board of Fisheries is to follow when making allocation decisions among all gear groups. The Alaska Department of Fish and Game has the responsibility of providing information on these allocation criteria to the Board. Without additional monitoring, information about the newly defined gear group (guided sport fishermen) would not be available to the Board. Via this fiscal note the Division of Sport Fish proposes statewide guide registration and fish ticket monitoring program of the guided sport fishery. If the Board of Fisheries chooses to institute specific guided sport fishery allocations and regulations, there would be associated costs for monitoring the affected fisheries. This fiscal note does not make the assumption that the Board will automatically adopt fiscally significant regulations. It does, however, make the assumption, that the Board requires information on the new gear group upon which to base their allocative decisions.

Presently, the Division of Sport Fish monitors allocations/guideline harvest levels to the sport fishery as a whole (guided and unguided anglers combined). The two primary methods used to monitor sport fisheries are: on-site creel surveys, and the statewide sport fish harvest survey. If specific allocations are made to guided sport fisheries, additional methods could be required to segregate this portion of the harvest. The programs that we could implement are: annual registration of all sport fishing guides/charter operators in the state; a fish ticket/log book program to monitor the harvest by sport fishing clients of all guides; modifications of the statewide sport fishing harvest survey to estimate catch by guided sport anglers as well as unguided sport anglers; and additional creel surveys to monitor specific fisheries to assure that the allocations to guided anglers are not exceeded. Guided sport fishery allocations could also increase costs associated with preparation and printing the annual regulations summary and added staff time to attend advisory committees, prepare for Board of Fishery meetings, and attend Board meetings to deal with guided sport fishing allocation issues.

As a first step in monitoring guided sport fisheries, the Division of Sport Fish recommends that a statewide registration and fish ticket program be initiated. This would allow for an accurate reckoning of the number of sport fishing guides in the state, and it would provide annual estimates of harvest by sport fishermen who use guide services.

Our best estimate is that there are about 2,100 guides operating in the state at this time. To register these guides each year, obtain monthly fish ticket harvest data, and analyze the catch data will require the services of a permanent seasonal Fishery Biologist II.

The summary of costs are as follows:

Personal Services

FY93	FY94	FY95	FY96	FY97	FY98
63.0	63.0	63.0	63.0	63.0	63.0

Fishery Biologist II (11 months): \$63.0

Travel

FY93	FY94	FY95	FY96	FY97	FY98
3.0	3.0	3.0	3.0	3.0	3.0

Travel and per diem to visit regional offices to provide instructions for completing forms and attend Board of Fisheries meeting to provide data.

Contractual

FY93	FY94	FY95	FY96	FY97	FY98
30.0	30.0	30.0	30.0	30.0	30.0

Printing costs for registration forms and fish tickets, and communications expenses.

Supplies

FY93	FY94	FY95	FY96	FY97	FY98
4.0	4.0	4.0	4.0	4.0	4.0

Office and other operating supplies.

Equipment

FY93	FY94	FY95	FY96	FY97	FY98
0.0	0	0	0	0	0

Total

FY93	FY94	FY95	FY96	FY97	FY98
100.0	100.0	100.0	100.0	100.0	100.0

A second method for estimating harvest from guided sport fisheries would be desirable, because it would allow for an independent estimate that could be used to verify the accuracy of estimates obtained from the fish ticket program. Without a second method of estimating harvest, the accuracy of the fish ticket estimates would be suspect. On-site creel surveys, or the statewide harvest survey (modified to obtain estimates from guided sport fisheries) could be used as a check on the accuracy of the fish ticket estimates. The costs for these programs could be as much as \$200.0. These potential costs are not included in the attached fiscal note.

If the Board of Fisheries makes individual allocations to guided sport fisheries, and requires in-season management of those fisheries, on-site creel surveys will be needed. Depending on the number and magnitude of the fisheries involved, the total cost of this program could easily be \$400.0. Costs for creel surveys are high because they are labor intensive. The potential costs of in-season management are not included in the attached fiscal note.

REPRESENTATIVE
JERRY MACKIE

P. O. BOX 73
CRAIG, ALASKA 99921
(907) 826-3008 OFFICE
(907) 826-2930 HOME

CHAIRMAN,
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,
TRANSPORTATION COMMITTEE

Alaska State Legislature



House of Representatives

WHILE IN JUNEAU
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4925

SPONSOR STATEMENT

on

HB 505, relating to guided sport fishing.

I introduced HB 505 to ensure that the Board of Fisheries has the regulatory ability to respond to the growing charter fishing industry. It allows the board to distinguish charter fishing operations as a subgroup separate from sports fishing.

The charter fishing industry is an important and rapidly growing commercial activity in Alaska, which I support. It has stimulated many local economies with its infusion of outside money. In certain areas, however, its growth has impacted other commercial, sport, and personal use harvests.

This is currently the case in Southeast where a strict catch quota for King salmon have been set by international convention. The charter industry is pitted against traditional sports and commercial harvest for the limited allocation. It is also the case for the popular Kenai River King salmon fishery. I believe that other such conflicts will inevitably develop with the continued growth of this important new industry.

This bill is not intended to restrict the charter industry but rather to provide a level playing field for all competing users of the state's fish resources. It allows the Board of Fisheries to use the full range of tools to fairly regulate the harvest of resources by sport, personal use, charter, and commercial gear users when conflicts develop.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 11, 1992

SUBJECT: CSHB 505 (); Summary

TO: Representative Jerry Mackie
ATTN: Dave Gray

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum summarizes CSHB 505 (), an Act relating to the guided sport fishery, regulation of sport fishermen, and the definition of "fishery".

CSHB 505 () clarifies the authority of the Board of Fisheries to regulate the guided sport fishery as a distinct fishery. The board has ample authority under the provisions of AS 16.05.221 and 16.05.251(a) to regulate the guided sport fishery and that authority should be construed liberally to promote the conservation and development of the fishery. See, Kenai Peninsula Fisherman's Co-operative Association v. State, 628 P.2d 897, 903 (Alaska 1981). The board's authority to distinguish between user groups and between subgroups of users has been recognized by the Alaska courts in numerous decisions that occurred before the legislature eventually recognized those groups or subgroups in statute. Kenai, at 901 - 02; State v. Hebert, 743 P.2d 392 (Alaska App. 1987), aff'd, 803 P.2d 863, 865 (Alaska 1990); Meier v. State, Board of Fisheries, 739 P.2d 172 (Alaska App. 1987). The board has the authority to distinguish between guided and unguided sport fishermen as necessary for the conservation and development of fisheries in the state. The board may also make such distinctions under its authority to regulate the manner and means of taking fish. However, by specifically mentioning the guided sport fishery as a fishery subject to regulation by the board, the legislature may be able to avoid a lawsuit testing the board's authority.

Section 1 of the bill amends

(1) AS 16.05.251(a)(6) by adding "guided sport fish" to the classes of fish that the Board of Fisheries may adopt for regulatory purposes;

Representative Jerry Mackie

March 11, 1992

Page 2

(2) AS 16.05.251(a)(12) by adding the guided sport fishery to the list of fisheries which the Board of Fisheries is specifically authorized to regulate.

The bill also adds a new paragraph to AS 16.05.251(a) authorizing the Board of Fisheries to regulate resident or nonresident sport fishermen as needed for conservation, development, and utilization of fishery resources.

Section 2 of the bill amends AS 16.05.251(e) by adding the guided sport fishery to the list of fisheries for which the Board of Fisheries must develop fishery resource allocation criteria.

By inserting a reference to the guided sport fishery into AS 16.05.251(e), the legislature is acknowledging the existence of a guided sport fishery and is requiring the board to adopt criteria for making allocations of fishery resources to the fishery. The bill does not require that allocations be made to the guided sport fishery, but if the board does decide to make such an allocation the board must do so in accordance with the criteria adopted under AS 16.05.251(e).

Section 3 of the bill amends AS 16.05.940 by repealing and reenacting the definition of "fishery". Previously "fishery" was defined only in terms of commercial fisheries, even though AS 16.05 used the term in the context of noncommercial fisheries such as sport, personal use, and subsistence fisheries. See, AS 16.05.251(e). The new definition of "fishery" defines the term in a manner that is generally applicable to sport, personal use, and subsistence fishing as well as commercial fishing. The terms "gear" and "type of gear" are also defined for purposes defining "fishery".

The term "guided sport" is not defined. The Board of Fisheries will have the discretion to define the term.

If I may be of further assistance, please advise.

GU:gc:lmb
92-056.lmb



UNITED FISHERMEN OF ALASKA

211 4th Street, Suit 112
Juneau, AK 99801
907-586-2820
Fax# 907-463-2545

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Cordova District Fishermen United
Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Seiners Association
Seafood Producers Cooperative
Southeast Alaska Seiners
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

February 27, 1992

MEMORANDUM

TO: Representative Cliff Davidson, Chairman
and Members of the House Resources Committee

FROM: Greg Seider, Executive Director *Greg Seider*

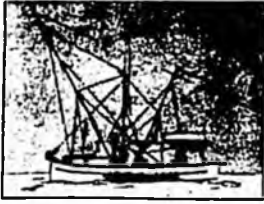
SUBJECT: HB 505

The United Fishermen of Alaska supports legislation identifying charter-guided fishing operators as a distinct user group.

UFA urges the House Resources Committee to adopt HB505. We support all efforts to enable definitive management of this rapidly growing user group.

GS:RD:phl

RECEIVED MAR 3 1992



Alaska
Trollers
Association

130 Seward St., No. 213
Juneau, Alaska 99801
(907) 586-9400

February 29, 1992

House Resources Committee
Pouch V
Juneau, AK 99811

Dear Committee Members:

The Alaska Trollers Association (ATA) would like to issue their strong support for HB 505, which seeks to identify guided sport as a separate user group for allocative purposes under AS 16.05.251(e).

ATA recognizes the importance of sportfishing to Alaska's tourism industry. However, we are concerned about the recent, accelerated expansion of the unregulated guided sportfishing industry, and its potential to adversely impact commercial trollers and resident sportfishermen. At its present rate of growth, it is not unlikely that guided sport operations will soon be capable of harvesting a significant portion of each years U.S./Canada Treaty chinook quota. Without clearly defined management tools in place, commercial fishermen and traditional sport anglers are at risk of being displaced by an up and coming industry.

Our understanding is that HB 505 does nothing more than provide the Board of Fisheries some added flexibility when selecting allocative prescriptions for Alaska's fisheries. Simply enacting this piece of legislation does not mandate the Board of Fisheries to take any particular action. Any change in allocation strategies around the state will still occur only at the Board's discretion, through the full public process. ATA could not support such a bill if we believed otherwise.

We urge you to support HB 505 and move it through the system posthaste. The Board of Fisheries should be granted every means available to allocate in a fair and equitable manner between the diverse users of our fisheries resource.

Sincerely,

Dale A. Kelley
Dale A. Kelley
Executive Director

RECEIVED FEB 25 1992

February 23, 1992

Cari Rosier, Commissioner
Alaska Department of Fish and Game
Box 3-2000
Juneau, Alaska 99802-0200

Dear Commissioner Rosier,

After talking with several sport fishermen about the increasing numbers of hatchery fish now being caught by sports in Alaska, most agree that somehow sports should be contributing to the enhancement of salmon. I will address specifically chinook in this proposal although I believe that all enhanced fish could be considered.

The five year average of hatchery chinook caught by sport fishermen from 1985-1990 has been 5,077 salmon. In 1991 this figure increased to 26,700, an increase of over 500 % in just 2 years. I believe the majority of the money used to produce these hatchery fish came from two sources. The 3% enhancement that commercial fishermen voluntarily assess themselves and mitigation money from the Pacific Salmon Treaty (PSC) marked to compensate trollers for the loss of chinook. There may be other sources that have contributed and they could be figured in accordingly.

If trollers are not able to access these fish because of the current management system and the harvest restrictions imposed upon them by the PSC, somebody should. But in all fairness, those who harvest these enhanced fish should compensate the gear group that did produce them. Not only did sports catch 26,700 of what I would say is fish reared for commercial harvest, but those fish, if they made it back to the hatcheries, would have been used for cost recovery.

What I would visualize is not money paid in advance to the eventual return of hatchery fish by the sports but a pay back system. they would only pay for fish caught. The hatchery operators in southeast know how much money it takes to produce one king salmon and I am sure that they have a figure of what they receive for each chinook for cost recovery. If the average price paid to the hatcheries for each chinook for cost recovery was only \$20, this still adds up to a loss of revenue to the hatcheries of \$534,000.

I make my living commercial fishing and as most commercial fishermen I also hold a sport fishing license. It think it would be fair to me that the license fee be increased and this increase be used to pay back hatcheries for the loss in cost recovery. Possibly a chinook card could be introduced. If a person wants to catch a chinook they would be required to purchase this card and money from this card would then be then used to pay back hatcheries. There may be other plans more acceptable. I don't know.

I would like to hear from you if you have any other ideas on this enhancement pay back plan.

Sincerely,

George Eliason

cc: Governor Walter Hickel
Senator Lloyd Jones, Chairman-Senate Resources
Representative Cliff Davidson, Chairman-House Resources
Southeast Legislators
Alaska Trollers Association
Southeast Seiners Association

Ketchikan Marine Charters, Inc.

representing Alaska's largest sportfishing charter boat fleet

February 24, 1992

Representative Jerry Mackie
Alaska State Legislature
P.O. Box V(MS 3100)
Juneau, Alaska 99811

Dear Representative Mackie,

I am writing this letter at the request of the membership of Ketchikan Marine Charters Association. House Bill No. 505 entitled "An Act authorizing the Board of Fisheries to allocate fishery resources to the guided sport fishery." certainly raises the same interesting questions as Senate Bill No. 397 in as much as the wording of HB 505 is exactly the same as SB 397.

Is the "guided sport fishery" a "fishery"? AS 16.05.940(12) defines "fishery" as the commercial harvest of a specific fishery resource by a specific gear type with intent to sell. The intent to sell is implied in the term commercial which is indirectly defined in 16.05.940(4) "commercial fisherman" and 16.05.940(5) "commercial fishing". It can be argued that the "guided sport fishery" is not a "fishery" as currently defined by Alaska Statute in as much as "sport fishing" as defined by AS16.05.940(28) is specifically limited to "not for sale" use.

Is "guided sport" a separate and distinct user group? The concept of "use" is fundamental to the definition of "user group" and to the differentiation of separate and distinct resource "user groups". "Use" is indirectly defined by statute as either "for sale" or "not for sale". "For sale" use is commercial fishing and "not for sale" use is either subsistence, personal use, or sport fishing use. Commercial fishing is a "user group" that for regulatory purposes is differentiated by gear type. On the other hand, "gear type" is the basic statutory differentiation between two user groups; namely "personal use fishing" and "sport fishing" as defined in AS16.05.940(23 & 24). "Hook and line" is the "gear type" that defines "sport fishing" as a resource "user group". It can be argued that "guided sport" is a statistical category and not a separate and distinct "user group" unless clearly defined by a separate and distinct "gear type" other than "hook and line" or on the basis of some other use than "not for sale".

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In our opinion, "guided sport" is a redundant and expensive management "tool" in as much as "sport fishing" is already a carefully defined and tightly regulated user group that is presently managed to be consistent with the principles of conservation of the resource and sustained yield; and in as much as "guided sport" will necessitate "in season" management techniques in order to maximize the economic contribution of "guided sport fishing" which will force the Department to either increase their budget or to reduce present management.

In our opinion, "guided sport" is a politically expedient resolution of a Southeast "problem" at the expense of the rest of the State and the State as a whole.

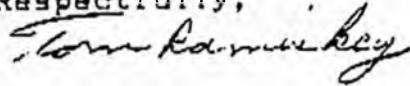
In our opinion, misunderstanding is the basis of the Southeast "problem". Possibly, the term "sport fishing" is partly to blame in as much as it is not indicative of "use". Sportanglers fish for fun and enjoyment; but they also fish for something to eat. Possibly, the "guided sport" industry is partly to blame because of it's inability to define what it does. The "guided sport" industry is a service industry that sells the "opportunity to fish and the reasonable expectation of a catch" to sportanglers. (Sport Fishing Institute of B.C. Jan. 1992).

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Ketchikan Marine Charters has explored several reasonable opportunities to negotiate resolution of this "problem" over the past several years and is firmly convinced that House Bill No. 505 is simply a "quick-fix" that will only aggravate the "problem" and that HB 505 is inconsistent with the Constitutional principle of common property resource management.

Thank you for your time and consideration.

Respectfully,



Tom Ramiskey, vice-president

cc: Governor Walter J. Hickel
Representative Ben Grussendorf
Representative Cheri Davis
Representative Robin Taylor
Representative Eileen Panigeo MacLean
Representative Dave Donley
Representative Cliff Davidson
Representative Johnny Ellis
Senator Richard Eliason
Senator Pat Pourchot
Senator Rick Halford
Senator Lloyd Jones
Senator Fred Zharoff
Commissioner Carl Rosier

enclosures: Joe "six-pack"---spends Dollars
DATELINE WEST article "Sport caught salmon---"
Southeast Opinion

SOUTHEAST OPINION

PACIFIC FISHING, March 1992, (article, Paradise Lost) stated "Sharks and sea lions take a small percentage of the trollers' catch, which is annoying enough; but the fleet is particularly upset these days about their losses to another breed of predator-sport fishermen."

This lends credibility to the question. "What does it take to make a fisherman happy?" Answer: "A fish." "What does it take to make a troller happy?" Answer: "No other fishermen."

Almost all reported troll caught fish leave the State. A large number of trollers take their money and leave each Fall. Now the trollers want the sport fishermen to leave without fish and still expect them to leave their money.

The trollers appear to have enough political influence on the Board of Fish and in the Alaska legislature that they can just demand and take with no public hearing, no accurate statistics, and no concern for the public or the State resources.

Alaska has entered into legal agreement with Canada and neighboring states to save a diminishing public resource. If current fishery management proposals are not followed, we risk being out of compliance with the U.S./Canada Treaty.

The February 1992 ALASKA FISHERMAN'S JOURNAL quotes our Senator Eliason as saying, "If we are out of compliance, it's just too damn bad. Let them take us to court."

If the other treaty signers have a similar attitude, it may well herald the end of all Southeast Alaska salmon fishing. After Eliason and the trollers eliminate the sport fishermen, the only other fishermen they can attack are the fishermen of the other treaty signers. Senator Eliason is right about one thing. It is too damn bad!

RECEIVED FEB 24 1982

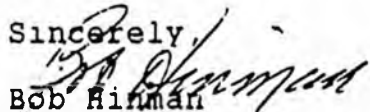
Representative Cliff Davidson
House of Representatives
P. O. Box V
Juneau, AK 99811

Dear Representative Davidson,

I am very concerned about, and highly opposed to, the current efforts of the commercial troll fishing industry to curtail the recreational fishing for king salmon in southeast, to benefit commercial fishing. SB 397 and the companion HB by Rep. Mackie are part of this effort. These bills appear on the surface to be innocuous, but would inevitably lead to severe restrictions and limiting of charter boat operations in southeast. Charter boats accommodate primarily nonresident visitors, who bring a great deal of money into our local economies. Each salmon caught by a visitor is worth far more to southeastern's economy than one caught by a commercial troller. Charter boats don't catch fish; they are the platform or transportation method used by sport fishermen to catch fish.

Please don't be misled by the seeming innocence of these bills. Please oppose them for the sake of our tourist industry and our resident sport fishermen.

Sincerely,


Bob Hinman
9019 Tournure St.
Juneau, AK 99801

SALMON BUSTERS RECEIVED FEB 24 1992

Guided Fishing

3222 Tide Avenue South
Ketchikan, Alaska 99901

Owner - Dan McQueen

Telephone - 907-225-2731

February 15, 1992

All Members of the Alaska
Senate & State Legislature
State Capitol
Juneau, Alaska 99801-1182

To All Members:

There are currently two bills, Senate Bill #397 and Robin Taylor's 502. Both concern limited entry. I would hope that before you take any actions on these two bills you will all read my following statement.

Many of us sport fishing guides support some type of limited entry. I, for one, feel that in the areas that have seen the ceiling hit in places like Ketchikan and possibly Juneau, an immediate moratorium should be enacted.

I feel that many of our smaller communities can benefit from more growth in sport fishing.

I have lived in Pt. Baker and I have seen the numbers of nonresident and resident sport fishermen spending money in the bar and store. True, these bush towns live on trolling, but a smaller amount of sport caught fish will provide thousands of dollars of new money to be left in Pt. Baker, Hoonah, etc.

Before people as smart as yourselves rush into any type of limited entry, you should remember this: a person from in-state and out-of-state would gladly pay a troller to take him or her fishing. If the troller caught only 2 fish for six people, those two fish would bring in \$450.00 apiece, not to mention the person that rents accommodations to them.

I don't want to see either trollers or sport fishing guides hurt. If a lot more time is taken so you could talk to the people that were at our Ketchikan Advisory Board meeting and listen to the concerns of the people in attendance, then you will see that there is lots of headway being made.

2.

From what I gather from 2 nights of careful listening we the people (both trollers and sport fishermen alike) are all ready to talk. The advisory board's own vote will prove even they have questions.

When you hear the number (409 in 1991) of charter boats, remember 27% of those registered boats are also trollers. So limiting entry will only give an operation like that the best of both worlds. Already, a troller has a valuable limited entry permit. If he is granted another, it would be unfair, because he has not used his charter license. Acquiring one was just insurance for them.

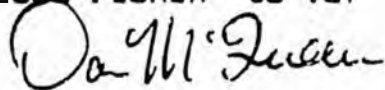
I own a small 21-ft. boat. Due to a back injury and two major surgeries, this is my only way to help support my family.

We fishing guides beg you folks in Juneau to let us have some input into this entry issue. We as an industry need for you to discuss this with us, the people who have been here and seen every document, every data sheet. We have many many ideas that will be acceptable to all concerned. Please before you pass or even discuss any of the two bills, Senate 397 and Robin's 502, please give me a chance to talk to each and every one of you, if need be.

We made history when all of us (trollers, sport fishermen, and sport fishing guides) sat and talked like men; we didn't yell and fight. I would also suggest that you subpoena copies of the tape recording that was made by the press (KRBD?). That tape shows we in Ketchikan want to work this whole issue out before any type of bill is passes.

If any of you want to talk to me, please call me at 1-225-2731. Please don't let these bills be rushed through by special interest lobbying.

Thanks and Good Fishin' to Ya!



Dan McQueen

TO ALL LEGISLATORS:
(REGARDING SB397 & HB505 "Guided Sportfishing")

"Why"

3-26-92

Sam McDowell supports passage of SB*397.

Example #1) The upper Cook Inlet population represents over 100% of Alaska's statewide population and an equal % of sport fishermen.

In my opinion the Kenai River King Salmon fishery will be in real trouble if our Legislators don't pass SB*397 that would allow our Board of Fisheries to regulate guided sport fishing separate from sport fishing.

Less than 300 sport fish guides harvested 65.75% of the total Kenai River King Salmon harvest based on 1990 and 1991 harvest records. 80% of the guided angler harvest were harvested before these King had passed the Kenai River bridge in Soldotna.

Due to the guided sport fish harvest interception, the upper Kenai River sport fishery is being foreclosed.

In times past there was a six week late run of Kenai River King Salmon, however, due to the vastness of the guided sport fish interception this run is depleted.

There are increasingly few King in the upper River sport fishery before July 31st when the Kenai River Sport King Salmon fishery closes.

Example #2) Due to the helicopter guided sport fisheries into several of the West Cook Inlet area clear water streams (Lewis River, Theodore River, and Chuitna River) these sport King salmon fisheries will be depleted in the very near future and closed.

Using helicopters to spot, land and harvest fish in these small clear water streams must be stopped (statewide).

3-26-92

Yes, I am of the opinion it is extremely important for our Alaska State Legislators to pass SB# 397, and give our Board of Fisheries the tools needed to regulate the guided sport fisheries like they do all other fisheries. Your consideration to pass SB# 397 will be truly appreciated.

Thank you
Have a good day
Sam E. McDowell
Concerned Alaskan
P.O. Box # 240329
Anchorage, Alaska
99524
Alt# 907-272-1405

P.S.

Again I'm of the opinion Alaskans who oppose this legislation are sending a clear message - they support special interests, over professional sustained yield management of our fisheries resources.