

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 919 219

Environmental Conservation for removal and cleanup of the Chenéga Bay herring saltery.

\* Sec. 180. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$800,000 is appropriated from the remedial and compensatory payments to the Department of Community and Regional Affairs for payment as a grant under AS 37.05.316 to the North Pacific Rim Corporation for establishment and operation of an aquatic farm shellfish hatchery.

\* Sec. 181. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$500,000 is appropriated from the remedial and compensatory payments to the Department of Administration for payment as a grant under AS 37.05.315 to the City of Seward for development of the Alaska Sea Life Center for work associated with endangered species in the region affected by the Exxon Valdez oil spill.

\* Sec. 182. In order to achieve the purpose of the remedial and compensatory payments, the sum of \$215,000 is appropriated from the remedial and compensatory payments to the Department of Administration for payment as a grant under AS 37.05.315 to the City of Valdez to install oil and grease separators on the storm drains.

\* Sec. 183. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$1,000,000 is appropriated from the remedial and compensatory payments to the Department of Commerce and Economic Development for payment as a grant under AS 37.05.316 to the Prince William Sound Aquaculture Corporation for upgrading the Main Bay hatchery.

\* Sec. 184. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$130,000 is appropriated from the remedial and compensatory payments to the Department of Fish and Game for payment as a grant under AS 37.05.316 to the Valdez Fisheries Development Association, Inc., for a study of the migration behavior of juvenile Prince William Sound salmon.

\* Sec. 185. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$85,000 is appropriated from the remedial and compensatory payments to the Department of Fish and Game for payment as a grant under AS 37.05.316 to the Valdez Fisheries Development Association, Inc., for a remote release fry transport study.

\* Sec. 186. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$4,000,000 is appropriated from the remedial and compensatory payments to the Department of Commerce and Economic Development for payment as a grant under AS 37.05.316 to the Alaska Fisheries Development Foundation for establishment of an endowment to support the foundation's fisheries development and research activities, including research on the effects of the Exxon Valdez oil spill on commercial fisheries and including restoration, replacement, and enhancement of commercial fisheries resources affected by the Exxon Valdez oil spill and acquisition of equivalent fisheries resources.

\* Sec. 187. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$190,685 is appropriated from the remedial and compensatory payments to the Department of Fish and Game for the development of a commercial sockeye salmon fishery at Kodiak Island to replace damaged Red Lake stocks.

\* Sec. 188. In order to achieve the purposes of the remedial and compensatory payments, the sum of \$100,000 appropriated from the remedial and compensatory payments to the Department of Environmental Conservation for payment as a grant under AS 37.05.316 to the Bristol Bay Buy-Back Coalition to work with the Congress to develop mechanisms for the future purchase of the federal offshore oil and gas leases in Bristol Bay.

\* Sec. 189. In secs. 153 - 190 of this Act, "remedial and compensatory payments" means the remedial and compensatory payments received by the state under the criminal plea agreement between the United States and Exxon Shipping Company and Exxon Corporation in United States of America v. Exxon Corporation and Exxon Shipping Company, United States District Court, District of Alaska, case No. A90-015 CR.

\* Sec. 190. The appropriations made by secs. 154 - 159, 161 - 164, and 172 of this Act replace resources and services injured by the Exxon Valdez oil spill with equivalent resources and services."

Renumber the following bill sections accordingly.

Page 119, lines 1 - 2:

Delete "and 149 - 152"

Insert "149 - 152, 154 - 156, 158, 159, 161 - 164, 173, 174, 182, and 183"

Page 119, following line 3:

Insert new bill sections to read:

"\* Sec. 192. The unexpended and unobligated balance of the appropriations made by secs. 160, 170, 175, 178 - 181, 184, 185, and 187 of this Act lapse into the fund from which they were appropriated June 30, 1995.

\* Sec. 193. The unexpended and unobligated balances of the appropriations made by secs. 166 - 169, 171, 172, 176, 177, and 188 of this Act lapse into the fund from which they were appropriated December 31, 1994.

\* Sec. 194. The unexpended and unobligated balances of the appropriations made by secs. 157 and 165 of this Act lapse into the fund from which they were appropriated June 30, 1993.

\* Sec. 195. The appropriation made by sec. 186 of this Act is for the establishment of an endowment and does not lapse."

Renumber the following bill sections accordingly.

Page 119, line ~~6~~<sup>7</sup>:

Delete "and 153 - 156"

Insert "153 - 197"

**SB484**

SB 483

~~SENATE CS FOR CS FOR HOUSE BILL NO. 470 (FINANCE) am S~~

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE <sup>S</sup>~~HOUSE~~ FINANCE COMMITTEE

Amended: 5/12/92

Offered: 5/10/92

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

## A BILL

## FOR AN ACT ENTITLED

1 "An Act making supplemental and special appropriations for the expenses of state  
 2 government; making, amending, and repealing appropriations; and providing for an effective  
 3 date."

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

5 \* Section 1. Section 40, ch. 73, SLA 1991, page 10, lines 13 - 14 is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ALLOCATIONS	ITEMS	FUND FUNDS
8 Commissions/Special Offices		<u>1,387,900</u>	<u>1,313,800</u> 74,100
9		[1,356,400]	[1,282,300]
10 Human Rights Commission	<u>1,101,200</u>		
11 (18 Positions)	[1,069,700]		

12 \* Sec. 2. (a) Section 40, ch. 73, SLA 1991, page 10, line 24 is amended to read:

	APPROPRIATION	GENERAL	OTHER
	ITEMS	FUND	FUNDS

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 6/15/92

FURTHER: Finance

DATE TURNED INTO OFFICE: 6/18/92

Senate Committee of the Whole considered SB 484

Relating to the taking of fish and game; efd.

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

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

to pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

fiscal notes \_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

Governor's bill with fiscal notes: zero fiscal notes \_\_\_\_\_

fiscal notes \_\_\_\_\_

**DO/PASS:**

*[Handwritten signatures]*

Chair: Signature and Recommendation

**OTHER RECOMMENDATIONS:**

*[Handwritten notes and signatures]*

3) Al Adams - DO NOT F...



# SENATE FINANCE COMMITTEE REPORT

DATE: 6/18/92

FURTHER:

DATE TURNED INTO OFFICE: 6/18/92

The Finance Committee considered SENATE BILL NO. 484

"An Act relating to the taking of fish and game; and providing for an effective date."

*rept be as plus*

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:**

**PREVIOUS FISCAL NOTES:** Dept/Date

zero fiscal notes \_\_\_\_\_

*FIA 285.4*

*FIA 413.0*

fiscal notes *OPS - 0*

*LAW 116.5*

*Cost 20.0*

**OTHER RECOMMENDATIONS:**

*Do Not Pass*

*Agendas - Do NOT PASS*

*Quinn - Do NOT PASS*

*Do Not Pass*

1. *Pat Kunkle*  
Co-Chair: Signature/Recommendation

2. *Pat Kunkle*  
Co-Chair: Signature/Recommendation

*Pres. Gov's all previous Gov's*

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO       

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game

Title: An Act relating to the taking BRU: Subsistence

of fish and game for subsistence Component: Subsistence

Sponsor: Rules Committee

Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

4	8	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	229.9	222.4	218.4	193.8	200.3	206.8
TRAVEL	8.5	7.5	6.5	5.5	5.5	5.5
CONTRACTUAL	27.5	25.5	23.5	22.0	22.0	22.0
SUPPLIES	2.5	2.5	2.5	2.5	2.5	2.5
EQUIPMENT	17.0	3.0	3.0	2.5	2.5	2.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>285.4</b>	<b>260.9</b>	<b>253.9</b>	<b>226.3</b>	<b>232.8</b>	<b>239.3</b>

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

GENERAL FUND	285.4	260.9	253.9	226.3	232.8	239.3
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>285.4</b>	<b>260.9</b>	<b>253.9</b>	<b>226.3</b>	<b>232.8</b>	<b>239.3</b>

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME	3.0	3.0	2.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year impact: No impact in FY 92

ANALYSIS: (Attach a separate page if necessary.) See attached analysis.

Prepared By: Robert Bosworth, Director Phone: 465-4147

Division: Division of Subsistence Date: 2/20/92

Approved by Commissioner:

Agency: Department of Fish and Game Date: 2/20/92

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

FISCAL NOTE ANALYSIS: Division of Subsistence

**Development of a Subsistence Permitting Program:**

**OVERVIEW:**

The Governor's subsistence bill creates a new system by which subsistence qualification criteria are applied to individual applicants in the urbanized areas of Alaska, and in some smaller communities where the economy is not based on subsistence. This individual application system is expected to draw in excess of 10,000 applicants in the first year or two, and a lesser number of applicants thereafter. Implementation of the proposed subsistence permitting program is anticipated to have a cost of \$285,378 for the first year, FY 93. By FY 98, the cost is expected to have dropped to \$239,342 as the permitting system assumes a normal regulatory presence and acceptance. A subsistence application program staff, with initial support from other Division of Subsistence staff, will have responsibility for the preparation, distribution, scoring, and issuing of subsistence permits. In addition, the staff will review applications for completeness and accuracy, evaluate responses, and hold findings of fact in disagreements involving issuance of permits.

**PROCESS:**

The unit charged with issuing subsistence permits will consist of a core of four individuals: a hearing officer, an analyst/programmer, a data processing clerk, and a clerk typist. Duties of the staff relate to two primary functions. (1) the mechanics of issuing permits and (2) the rectification of disagreements. The issuance of permits requires the design and printing of applications, a distribution system to provide the public with ready access to the applications, a means to rapidly evaluate applications, and issue permits to qualified applicants. The rectification of disagreements over the issuance of permits requires a systematic process in which applicants have adequate recourse to resolving disputes prior to seeking judicial relief.

To provide the applicant with the greatest opportunity of receiving the benefits to which they are entitled, the permitting system provides a series of safe guards. The oversight process begins with receipt of the application and its initial review. Applications lacking vital information or incomplete responses will be returned with letters of explanation. Applicants who do not receive a permit as confirmation of meeting the subsistence criteria will receive notification of their rejection and the opportunity to provide additional support to their claim of subsistence priority. If the unsuccessful applicant provides additional support, the application will be re-evaluated and the applicant informed of the results. Should the applicant still be rejected, they may seek an appearance before the hearing officer in order to determine the facts of the case. If the hearing officer still decides against the applicant, the applicant can appeal to the Commissioner of Fish and Game. In the event the Commissioner affirms the original denial, the decision would be final for the Department and the applicant could appeal to the state Superior Court.

**CORE STAFFING:**

**Hearing Officer:** The hearing officer (HO) is a range 21 employee with responsibilities for determining findings of facts. This position will design and implement the necessary procedures to see that the intent of the legislation is met and that applicants who are denied a subsistence permit are assured of due process. The position receives clerical support from the clerk typist position and investigative support from the analyst programmer position.

**Analyst Programmer III:** The analyst programmer (A/P III) is a range 17 with responsibilities for the design of the application, creation of the necessary data management procedures and programs, and the

collection of administrative information relevant to the applicant. Using hunting license and permit information within the Department of Fish and Game, the programmer will provide the hearing officer with data relevant to applications in dispute. The position will also undertake a random review of successful awardee to ensure that the system is meeting its objective of providing a subsistence priority to qualified applicants. The analyst/programmer will have co-responsibility with the hearing officer for preparation of documentation on applicant cases. The position will provide immediate supervision of the data processing clerk and those functions of clerk exclusive of the hearing process.

**Data Processing Clerk II:** The data processing clerk II (DPC II) is a range 9 with responsibilities for the accurate review and entry of information provided by the applicant. Following data entry, the position will archive all materials in accordance with administrative procedures. As required, the data processing clerk will provide support for the distribution of applications and permits.

**Clerk III:** The clerk III is a range 9 with responsibilities for maintaining administrative functions of the unit, responding to public inquiries, and facilitating the activities of the hearing officer through the recording and preparation of transcripts of all hearings.

#### **SUPPORT STAFF:**

During the initial years of the program, the unit will draw upon some staff resources of the Division of Subsistence. The Division's current research director and AP IV will develop and analyze options for the subsistence application and scoring system for presentation to the Boards of Fisheries and Game, who are authorized in the bill to finalize the application and scoring system. These and other support functions will be subsumed within the Division's current budget. Subsistence Resource Specialist (SRS) IIs and clerical staff will provide regional support in facilitating the public's awareness of the process and responding to inquiries of local residents. In the first year, eight months of SRS support is provided. This drops to four months in the second year, and a single month in the third year. After the third year, the permitting process will involve only the core, four-member staff.

#### **BUDGET--Division of Subsistence:**

##### **FY 93**

The initial budget provides for three full time employees: the analyst/programmer III, the data processing clerk II, and the clerk III. This group will prepare and distribute the application forms, respond to public inquiries, and score the applications received. The hearing officer will be brought onto staff immediately prior to the receipt of applications. With the subsistence permitting unit based in Anchorage, additional regional support to respond to public inquiries will be provided by subsistence resource specialists (SRS) and clerical staff (C III) in other regions of the state. Funding in the amount of four months each is provided for each of the two employee classes. Total personnel costs are projected at \$229,878.

A travel budget of \$8,500 provides opportunities for program outreach in affected portions of the state, and the appearance of the hearing officer for hearings as required.

Contractual services for the printing and distribution of applications, permits, and other correspondence, and communications totals \$27,500. Total contractual expenses are \$27,500.

Providing for office expendibles will entail \$2,500 per year. The creation of a new organization requires the acquisition of the necessary equipment and furniture to allow the staff to perform their required functions. Seventeen thousand dollars (\$17,000) is designated to meet this one-time need for equipment.

The total budget for the first year of operation is \$300,378.

**FY 94:**

Staff expenses during the second year decline to \$222,416 as the additional SRS and clerical support is reduced. An additional \$3,000 reduction occurs for lines 200 and 300 (travel and services) as the number of applicants declines. Equipment expenses decline to \$3,000. The total cost of implementing the program in the second year is \$260,916, a reduction of over 8% from the previous year.

**FY 95:**

Further personnel savings accrue during the third year as outside support is reduced to a single month of SRS time. Travel and services decline by an additional \$3,000. Supplies and equipment expenses are unchanged from the previous year. The total cost of program implementation in the third year is \$253,921, a reduction of 2.5% from the previous year.

**FY 96:**

The third year is projected to show a decline of nearly \$25,000 in personnel costs from the previous year as outside assistance is eliminated and the hearing officer position reduced to half-time as the need for additional rectification declines. Supplies and services decline by another \$2,500. The total program cost for the year is \$226,315, a 10% reduction from the prior year.

**FY 97 and FY 98:**

No additional personnel savings are projected as the program is managed by three and a half full time employees. All other expenditures remain stable. In FY 97, the budget is \$232,828, and in FY 98 it is \$239,342. The modest increment is due to personnel longevity charges.



## DIVISION OF BOARDS

### ANALYSIS

The Board of Fisheries and the Board of Game meeting individually and together as the Joint Board would require approximately seventy days of meetings over a three year period to implement the new subsistence bill. In future years, the new bill would add approximately ten days to the overall board schedule. This estimate is based on board consideration of rural designations and customary and traditional use during the 1980s. It is important to note that since 1989 both boards have deferred most proposals dealing with subsistence in anticipation of legislation that would allow for a defensible approach to proposals. Over this same time period there have been reductions in the Division of Boards budget that have reduced the capability of the boards to meet. With the advent of new subsistence legislation, the boards will have to deal with subsistence issues as well as maintaining a full workload in other regulatory areas.

The items in the proposed legislation requiring the greatest effort on the part of the boards, in descending order, are:

(1) "The boards shall by regulation, jointly identify and delineate areas of the state, utilizing game management unit, portion of game management unit, or community, as follows:

(1) areas where the human population of each community is less than 2,500 and where dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of the area, and that are not part of an urban area.

(2) communities where the human population is 2,500 to 7,000 and where dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of the community, and that are not part of an urban area." 20 DAYS

(2) "Upon receipt of recommendations from the commissioner, the Boards of Fish and Game shall identify the fish stocks and game populations, or portions of stocks or populations, that are customarily and traditionally used for subsistence in the areas and communities of the state identified by the boards under (e)(1) and (e)(2) of this section." 40 DAYS

(3) "Upon receipt of a recommendation from the commissioner, the boards shall, by regulation, adopt procedures by which the commissioner shall determine the qualification of subsistence users to subsistence hunt and fish in a specific subsistence use area." 10 DAYS

Other items affecting cost estimates:

(1) With the loss of federal funding, Boards Division has eliminated two regional coordinators in the FY93 budget. The cost estimates include reactivation of these two coordinators. The regional coordinators are essential to provide for increased advisory committee meetings. Implementation will add at least one more meeting for each advisory committee. This increase, plus increased board meeting days, are beyond staff's capability to provide adequate support.

(2) If the bill were to bring the state into compliance with ANILCA, we could anticipate that a portion and perhaps all of the estimated costs could come from the federal government.

COSTS - FY93

<u>Personal Services:</u>	115.0
overtime for existing staff	
two regional coordinators	
<u>Travel:</u>	192.0
travel and per diem for board members,	
Boards staff, and advisory committee	
meetings	
<u>Contractual:</u>	100.0
meeting space, printing and postage for	
proposal books, telephone and legal	
notice of meetings	
<u>Supplies:</u>	5.0
office supplies	
<b>TOTAL</b>	<b><u>412.0</u></b>

COSTS - FY94:

Personal Services	120.0
Travel	199.5
Contractual	104.0
Supplies	5.0
<b>TOTAL</b>	<b><u>428.5</u></b>

COSTS - FY95:

Personal Services	125.0
Travel	172.0
Contractual	100.0
Supplies	5.0

**TOTAL** **402.0**

COSTS - FUTURE YEARS

Personal Services	130.0
Travel	97.0
Contractual	57.0
Supplies	2.0

**TOTAL** **286.0**

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

Revision Date: \_\_\_\_\_ Department Affected: Public Safety  
 Title: "An Act relating to the taking of fish and game for subsistence" BRU: Fish & Wildlife Protection  
 Component: Enforcement & ISU  
 Sponsor: Rules  
 Requestor: Governor COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

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

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						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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.)**  
 No fiscal impact is anticipated.

Prepared By: Captain Conrad G. Seibel Phone: 269-5509  
 Division: Fish & Wildlife Protection Date: 2/20/92  
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton  
 Agency: Department of Public Safety Date: 2/20/92

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to the taking of fish and game for subsistence..." BRU: Legal Services  
 Component: Operations  
 Sponsor: Request of the Governor  
 Requestor: Governor's Office 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	85.0	85.0	85.0	45.0	45.0	
TRAVEL	5.0	5.0	5.0	3.0	3.0	
CONTRACTUAL	17.6	17.6	17.6	12.6	12.6	
SUPPLIES	2.4	2.4	2.4	2.4	2.4	
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>63.0</b>	<b>63.0</b>	<b>-0-</b>

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

GENERAL FUND	116.5	110.0	110.0	63.0	63.0	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	1.0	1.0	1.0	-0-	-0-	-0-
PART-TIME				1.0	1.0	-0-
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: February 20, 1992  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: February 20, 1992



FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill No. SB 484

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
Title: An Act relating to the taking of fish BRU: Trial Courts  
and game Components: \_\_\_\_\_  
Sponsor: Governor  
Requestor: \_\_\_\_\_ 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	20.0	15.0	10.0	5.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	20.0	15.0	10.0	5.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	20.0	15.0	10.0	5.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	20.0	15.0	10.0	5.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)  
  
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
Division: Alaska Court System Date: 06/16/92

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CS* Date: 06/16/92  
Agency: Alaska Court System

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

# **CORRECTION**

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

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to the taking of fish and game for subsistence..." BRU: Legal Services  
 Sponsor: Request of the Governor Component: Operations  
 Requestor: Governor's Office COMPONENT SERIAL NO. 

		9	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	85.0	85.0	85.0	45.0	45.0	
TRAVEL	5.0	5.0	5.0	3.0	3.0	
CONTRACTUAL	17.6	17.6	17.6	12.6	12.6	
SUPPLIES	2.4	2.4	2.4	2.4	2.4	
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>116.5</b>	<b>110.0</b>	<b>110.0</b>	<b>63.0</b>	<b>63.0</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	116.5	110.0	110.0	63.0	63.0	-0-
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME	1.0	1.0	1.0	-0-	-0-	-0-
PART-TIME				1.0	1.0	-0-
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

*Richard I. Pegues*

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: February 20, 1992  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: February 20, 1992

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. \_\_\_\_\_

This bill provides a broad statutory framework that gives subsistence use of fish and game a preference over other consumptive uses of the state's fish and game resources. The bill establishes subsistence dependence standards, defines several terms that have been subject to litigation, and provides a rational scheme for determining those Alaskans whose reliance upon fish and game for subsistence purposes is actual and substantial. The bill also directs the Department of Fish and Game and the Boards of Fish and Game to take affirmative action in situations where a stock or population is not sufficient to provide for both subsistence and nonsubsistence uses, and to formulate plans for recovery of the resource sufficient to provide for all users, if possible.

The bill uses individual eligibility requirements to determine qualification for the subsistence preference. While the bill uses community characteristics to determine the paperwork requirements for qualification, an individual's demonstrated actual and substantial reliance on fish and game in the last twelve months is what determines ultimate qualification as a preferred subsistence user. Urban residents who meet the requirements will also be preferred users. This is an abrupt departure from the state's previous (rural versus urban) attempts to provide a subsistence preference. Furthermore, the bill represents a fair and manageable way of complying with the spirit of ANILCA, without violating special provisions in Alaska's constitution requiring equal access to fish and game and management according to the sustained yield principle.

Because of the controversies that have surrounded and continue to surround subsistence, this bill will be vigorously challenged in court if it is enacted. Although the bill will eliminate many uncertainties that currently involve subsistence, the bill will have a significant, ongoing fiscal impact on the Department of Law over the first four of five years of implementation. That is because the department must defend the bill against court challenges, assist the Boards of Fisheries and Game in drafting, and then reviewing, a substantial body of evolving regulations, and also advise and defend the Department of Fish and Game in disputes resulting from adverse preference qualification determinations. Consequently, the Department of Law will require the additional services of an attorney.

Position Title <b>Attorney IV</b>		No. of Positions <b>1</b>	Range / Step <b>24A</b>	Barg. Unit <b>PX</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>7 through 15</b>
<b>TYPE OF EXPENDITURE</b>		<b>Amount</b>		
Salary		<b>64,056</b>		
Benefits		<b>20,969</b>		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>85,025</b>		
Travel		<b>5,000</b>		
Contractual		<b>17,600</b>		
Commodities		<b>2,400</b>		
Equipment		<b>6,500</b>		
Other				
<b>Total Cost</b>		<b>116,525</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	<b>116,525</b>		
I-A Receipts	1007			
CII* Receipts	1061			
Other				
Justification  Implementation of the subsistence preference law will require the full-time services of an attorney to handle: (1) court challenges of the law; (2) drafting and reviewing of a substantial body of regulations; and (3) representation of ADF&G and the Fish and Game Boards in disputes resulting from adverse preference qualification determinations. All of this work will require journey-level services of an Attorney IV.				

**Request For  
New Position**

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

**FY** 93

Page 1 of 2

Revised Date: \_\_\_\_\_

FISCAL NOTE

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Bill No. SB 484

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to the taking of fish and game BRU: Trial Courts  
 Sponsor: Governor Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 96	FY 96	FY 97	FY 98
PERSONAL SERVICES	20.0	15.0	10.0	5.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	20.0	15.0	10.0	5.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	20.0	15.0	10.0	5.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	20.0	15.0	10.0	5.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)  
 See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 06/16/92

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CS*  
 Agency: Alaska Court System Date: 06/16/92

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

ALASKA COURT SYSTEM

SB 484

Analysis

ANALYSIS

This legislation provides a statutory priority for subsistence use of fish and game, relative to other consumptive uses of the state's fish and game resources.

Because of the continuing controversies surrounding this issue, it can be anticipated that the bill will face a vigorous legal challenge if it is enacted. It can also be anticipated that regulations adopted to implement this legislation will face legal challenge.

As drafted, the bill limits participation in a subsistence harvest to persons who meet certain qualifications. The Department of Law has indicated that actions by the state to challenge the presumptive qualifications of specific individuals would be by declaratory judgement brought in superior court.

The fiscal note reflects pro tem judge costs that will be incurred in handling these matters expeditiously.

## SENATE BILL NO. 484

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 6/15/92  
Referred: Senate Committee on the Whole

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the taking of fish and game; and providing for an effective date."

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

3 \* Section 1. FINDINGS, PURPOSE, AND INTENT. (a) The legislature finds that

4 (1) there are Alaskans, both Native and non-Native, who have a traditional, social, or  
5 cultural relationship to and dependence upon the wild renewable resources produced by Alaska's land  
6 and water; the harvest and use of fish and game for personal and group consumption is an integral part  
7 of those relationships;

8 (2) although customs, traditions, and beliefs vary, these Alaskans share ideals of respect  
9 for nature, the importance of using resources wisely, and the value and dignity of a way of life in which  
10 they use Alaska's fish and game for a substantial portion of their sustenance; this way of life is  
11 recognized as "subsistence";

12 (3) customary and traditional uses of Alaska's fish and game originated with Alaska  
13 Natives, and have been adopted and supplemented by many non-Native Alaskans as well; these uses,  
14 among others, are culturally, socially, spiritually, and nutritionally important and provide a sense of

1 identity for many subsistence users;

2 (4) while Alaska's fish and game are generally still plentiful, these resources are not  
3 unlimited and cannot provide for every desired use, now or in the future; competition for and the level  
4 of effort on these resources have required the legislature and the Board of Fisheries and Board of Game  
5 to establish a preference for subsistence among the various beneficial uses of fish and game in the state;

6 (5) in most areas of the state, a preference for subsistence can be provided without an  
7 overly burdensome intrusion upon other consumptive uses of fish and game;

8 (6) among persons who take fish and game, a large majority of those living in areas  
9 described in AS 16.05.268(f)(1), a majority of those living in areas described in AS 16.05.268(f)(2), and  
10 a small minority of those living in areas described in AS 16.05.268(f)(3) depend upon the subsistence  
11 taking of fish and game;

12 (7) in determining dependence upon the subsistence taking of fish and game, the  
13 application of different levels of presumptions based on categories is logical, does not deny any person  
14 the opportunity to demonstrate dependence on subsistence use, focuses on persons who depend on  
15 subsistence use, is administratively efficient, and is compatible with existing management measures  
16 without needlessly interfering with other uses of fish and game resources; and

17 (8) the application of presumptions, based on areas of domicile, to facilitate  
18 determinations of a person's qualifications as a subsistence user will maximize the state's management  
19 efforts.

20 (b) It is the purpose of this Act

21 (1) to develop and maintain healthy fish stocks and game populations through  
22 management based on the sustained yield principle;

23 (2) to provide for a preference for subsistence use over other consumptive uses of fish  
24 and game resources;

25 (3) to provide for the participation in the subsistence taking of fish and game by those  
26 Alaskans who actually and substantially depend upon that subsistence taking;

27 (4) to maximize the state's management efforts by applying presumptions based on  
28 subsistence characteristics of areas to reduce the need for case-by-case individual determinations of  
29 dependence on subsistence in those areas of the state that have a high proportion of subsistence users  
30 who meet the qualifications set out in this Act.

31 (c) It is the intent of the legislature

1 (1) that subsistence uses of Alaska's fish and game resources are given the highest  
2 preference, in order to accommodate and perpetuate those uses;

3 (2) to clarify the statutory protection for actual, substantial dependence on fish and game  
4 for subsistence; and

5 (3) that this Act not result in significant reallocations of fish and game in Alaska.

6 \* Sec. 2. AS 16.05 ~~is amended~~ by adding a new section to read:

7 Sec. 16.05.268. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME. (a)

8 The Board of Fisheries and the Board of Game shall identify the fish stocks and game  
9 populations, or portions of stocks or populations, that are customarily and traditionally taken for  
10 subsistence in the areas of the state identified by the boards under (f)(1) and (2) of this section.

11 The commissioner shall provide recommendations to the boards concerning the stock and  
12 population identifications. The boards shall make identifications required under this subsection  
13 after receipt of the commissioner's recommendations.

14 (b) The appropriate board shall determine whether a portion of a stock or population  
15 identified under (a) of this section can be harvested consistent with sustained yield, and

16 (1) if the harvestable portion of the stock or population is sufficient to provide  
17 for all consumptive uses, the appropriate board

18 (A) shall adopt regulations that provide a reasonable opportunity to  
19 participate in the subsistence uses of those stocks or populations;

20 (B) shall adopt regulations that provide for other consumptive uses of  
21 those stocks or populations, subject to preferences among beneficial uses; and

22 (C) may adopt regulations to differentiate among consumptive uses;

23 (2) if the harvestable portion of the stock or population is sufficient to provide  
24 for subsistence uses and some, but not all, other consumptive uses, the appropriate board

25 (A) shall adopt regulations that provide a reasonable opportunity to  
26 participate in the subsistence uses of those stocks or populations;

27 (B) may adopt regulations that provide for other consumptive use of those  
28 stocks or populations; and

29 (C) shall adopt regulations to differentiate among consumptive uses and  
30 provide for a preference for the subsistence uses, if regulations are adopted under (B) of  
31 this paragraph;

1 (3) if the harvestable portion of the stock or population is sufficient to provide  
2 for subsistence uses, but no other consumptive uses, the appropriate board shall adopt regulations  
3 that eliminate other consumptive uses in order to provide a reasonable opportunity for subsistence  
4 uses; and

5 (4) if the harvestable portion of the stock or population is not sufficient to provide  
6 a reasonable opportunity for all subsistence uses, the appropriate board shall

7 (A) adopt regulations eliminating all consumptive uses, other than  
8 subsistence uses;

9 (B) distinguish among subsistence users, through limitations based on

10 (i) the customary and direct dependence on the fish stock or game  
11 population by the subsistence user for human consumption as a mainstay of life;

12 (ii) the proximity of the domicile of the subsistence user to the  
13 stock or population; and

14 (iii) the ability of the subsistence user to obtain food if subsistence  
15 use is restricted or eliminated.

16 (c) If the harvestable portion of a stock or population is insufficient to provide both for  
17 a reasonable opportunity for subsistence and for all other consumptive uses, the department shall  
18 prepare a plan to facilitate the recovery of that stock or population to allow for increased  
19 consumptive uses as soon as possible. The department shall provide recommendations to the  
20 appropriate board for necessary regulatory changes. If subsistence use of a stock or population  
21 has been eliminated to achieve sustained yield, the appropriate board shall adopt regulations to  
22 allow subsistence uses when that board determines that the stock or population has recovered  
23 sufficiently to allow the taking for any consumptive use, consistent with sustained yield.

24 (d) The subsistence use area for a stock or population is the subunit of a game  
25 management unit in which the fish or game may be taken under subsistence regulations adopted  
26 under (b) of this section, together with contiguous game management subunits, unless the  
27 appropriate board identifies and delineates a subsistence use area with different boundaries for  
28 a particular fish stock or game population under (e) of this section.

29 (e) Each board shall consider subsistence use area boundaries described in (d) of this  
30 section. Each board shall delineate a different boundary for a particular stock or population if  
31 the appropriate board determines that the boundary of a subsistence use area is inconsistent with

1 established patterns of taking and use of that fish stock or game population for subsistence, or  
2 is inconsistent with the efficiency and economy of effort, cost, and transportation inherent in the  
3 customary and traditional taking and use of fish and game for subsistence.

4 (f) The boards shall, by regulation, for the state, jointly identify and delineate areas, using  
5 game management units, portions of game management units, or communities, into the following  
6 categories:

7 (1) category 1, an area where the human population of each community in the  
8 area is less than 2,500, is not part of an urban area, and where dependence upon subsistence is  
9 a principal characteristic of the economy, culture, and way of life of the area;

10 (2) category 2, an area that consists of a single community that has a human  
11 population of 2,500 to 6,999, is not part of an urban area, and where dependence upon  
12 subsistence is a principal characteristic of the economy, culture, and way of life of the  
13 community;

14 (3) category 3, an area that is

15 (A) an urban area, or a single community, where the human population  
16 is 7,000 or greater; or

17 (B) an area or community where dependence upon subsistence is not a  
18 principal characteristic of the economy, culture, and way of life of the area or community.

19 (g) In determining whether dependence upon subsistence is a principal characteristic of  
20 the economy, culture, and way of life of an area under (f) of this section, the boards shall jointly  
21 consider the relative importance of subsistence compared to the totality of the following socio-  
22 economic characteristics of the area:

23 (1) the social and economic structure;

24 (2) the stability of the economy;

25 (3) the extent and the kinds of employment for wages, including full-time, part-  
26 time, temporary, and seasonal employment;

27 (4) the amount and distribution of cash income among those domiciled in the  
28 area;

29 (5) the cost and availability of goods and services to those domiciled in the area;

30 (6) the variety of fish and wildlife species used by those domiciled in the area;

31 (7) the seasonal cycle of economic activity;

1 (8) the percentage of those domiciled in the area participating in hunting and  
2 fishing activities or using wild fish and game;

3 (9) the harvest levels of fish and game by those domiciled in the area;

4 (10) the cultural, social, and economic values associated with the taking and use  
5 of fish and game;

6 (11) the geographic locations where those domiciled in the area hunt and fish;

7 (12) the extent of sharing and exchange of fish and game by those domiciled in  
8 the area;

9 (13) additional similar factors the boards establish in regulation to be relevant to  
10 their determinations under this subsection.

11 (h) Participation in a subsistence harvest in a subsistence use area is limited to persons  
12 who meet the requirements for qualification under (i) and (j) of this section for that subsistence  
13 use area, with the following presumptions and requirements:

14 (1) a person who is domiciled in the subsistence use area in an area identified  
15 under (f)(1) of this section, and who intends to take fish or game for subsistence purposes is  
16 presumed to meet the requirements for qualification under (i) and (j) of this section for that  
17 subsistence use area; this presumption may be rebutted only by the state by clear and convincing  
18 evidence, and the boards may not require a permit or filing of a statement affirming that the  
19 person meets the requirements for qualification under (i) and (j) of this section;

20 (2) a person who is domiciled in the subsistence use area in an area identified  
21 under (f)(2) of this section, and who intends to take fish or game for subsistence purposes is  
22 rebuttably presumed to meet the requirements for qualification under (i) and (j) of this section  
23 for that subsistence use area upon that person's signing a statement, on a form provided by the  
24 department, affirming that the person meets those requirements; the state may rebut this  
25 presumption by a preponderance of the evidence that the person does not meet those qualification  
26 requirements;

27 (3) a person domiciled in an area identified under (f)(3) of this section or who  
28 is domiciled outside of the subsistence use area is qualified to participate in a subsistence fishery  
29 or hunt in that subsistence use area only upon certification by the commissioner that the person  
30 meets the requirements for qualification under (i) and (j) of this section.

31 (i) The boards shall jointly, by regulation, adopt procedures by which the commissioner

1 shall determine the qualification of a person to subsistence fish or hunt in a specific subsistence  
2 use area. The commissioner shall provide recommendations to the boards on qualification  
3 procedures. The boards shall jointly adopt the regulations required by this subsection after the  
4 receipt of the commissioner's recommendations. The boards shall adopt, by regulation, a  
5 weighted point system to determine a person's eligibility. The boards shall structure the point  
6 system so that the minimum points required for qualification exceed the total points received for  
7 meeting the mandatory minimum requirements in (1) - (4) of this subsection. The point system  
8 shall be based on the following criteria and restrictions:

9 (1) the quantity of fish and game consumed by the person in the preceding 12  
10 months, with a mandatory minimum of 125 pounds consumed in that period;

11 (2) the number of species and groups of species of fish and game from the  
12 subsistence area used by the person in the preceding 12 months, with a mandatory minimum  
13 number of species, or groups of species, as determined jointly by the boards by regulation; the  
14 mandatory minimum number, and any grouping of species, may vary by geographical region of  
15 the state, based on the diversity of species in a region;

16 (3) the number of days in the preceding 12 months that the person engaged in the  
17 taking of fish or game in the subsistence use area, or the processing of that fish or game, with  
18 a mandatory minimum of 30 days in that period;

19 (4) the number of months in the preceding 12 months in which the person  
20 engaged in the taking of fish or game in the subsistence use area, with a mandatory minimum  
21 of four months in that period;

22 (5) the number of weeks in the preceding 12 months during which the taking or  
23 processing of fish or game was the person's principal work effort, with no additional  
24 consideration given beyond a maximum of 26 weeks;

25 (6) the number of households, other than the person's household, with which the  
26 person shared or from which the person received fish and game in the preceding 12 months, with  
27 no additional consideration given beyond a maximum of 10 households; and

28 (7) whether the person's taking of fish and game occurred solely in the  
29 subsistence use area.

30 (j) A person who does not meet the mandatory minimum requirements of each of (i) (1) -  
31 (4) of this section does not meet the requirements for qualification under (i) of this section.

1 (k) For the purposes of (h) and (i) of this section, the taking, processing, or use of the  
2 fish and game must have been legal, noncommercial, and characterized by efficiency and  
3 economy of effort, cost, and transportation. For the purposes of (i)(1), (2), and (6) of this  
4 section, the fish and game may not have been purchased for money or other monetary  
5 consideration. The boards shall jointly adopt regulations allowing a person who has been unable  
6 to meet the criteria of (h) or (i) of this section because of hospitalization, or military service or  
7 full-term attendance at an educational institution outside the relevant subsistence use area to base  
8 responses on the 12 months immediately preceding the commencement of the circumstance.

9 (l) The commissioner shall provide, by regulation, for an expedited review procedure for  
10 a person who is determined by the department not to meet the qualifications as a subsistence  
11 user.

12 (m) Fish stocks and game populations, or portions of fish stocks and game populations  
13 not identified under (a) of this section may be taken only under nonsubsistence regulations.

14 (n) Taking and use of fish and game authorized under this section are subject to  
15 regulations regarding open and closed areas, seasons, methods and means, marking and  
16 identifications requirements, quotas, bag limits, harvest levels, and sex, age, and size limitations.  
17 Takings and uses of resources authorized under this section are subject to AS 16.05.831 and  
18 AS 16.30.010.

19 (o) For purposes of

20 (1) subsection (b) of this section, "reasonable opportunity" is an opportunity, as  
21 determined by the appropriate board,

22 (A) allowing a subsistence user to participate in a subsistence hunt or  
23 fishery that provides a normally diligent participant with a reasonable expectation of  
24 success of taking of fish or game, but does not guarantee the taking of fish or game; the  
25 conditions of the hunt or fishery; or the taking of all the fish and game that the participant  
26 wants or needs; and

27 (B) based on the findings of the appropriate board on each of the  
28 following factors:

29 (i) resource population and management objectives;

30 (ii) estimated harvest per unit of effort by participants in the  
31 fishery or hunt;

- 1 (iii) patterns and levels of customary and traditional taking and use  
2 of the fish or game;  
3 (iv) migratory patterns and availability of fish or game;  
4 (v) competition for the fish or game from other subsistence and  
5 nonsubsistence uses; and  
6 (vi) other factors that the appropriate board considers relevant.

7 (2) subsection (i) of this section, "preceding 12 months" means for a person  
8 described

9 (A) in (h)(1) of this section, the 12 months preceding the taking of the fish  
10 or game resource;

11 (B) in (h)(2) of this section, the 12 months preceding the date of signing  
12 of the required statement;

13 (C) in (h)(3) of this section, the 12 months preceding the date of signing  
14 the application to the commissioner.

15 \* Sec. 3. AS 16.05.251(d) is amended to read:

16 (d) Regulations adopted under (a) of this section must, consistent with sustained yield  
17 and the provisions of AS 16.05.268 [AS 16.05.258], provide a fair and reasonable opportunity  
18 for the taking of fishery resources by personal use, sport, and commercial fishermen.

19 \* Sec. 4. AS 16.05.255(d) is amended to read:

20 (d) Regulations adopted under (a) of this section shall provide that, consistent with the  
21 provisions of AS 16.05.268 [AS 16.05.258], the taking of moose, deer, elk, and caribou by  
22 residents for personal or family consumption has preference over taking by nonresidents.

23 \* Sec. 5. AS 16.05.940(29) is amended to read:

24 (29) "subsistence fishing" means the taking [OF, FISHING FOR,] or possession,  
25 by a qualified resident, of fish, shellfish, or other fisheries resources [BY A RESIDENT  
26 DOMICILED] in a subsistence use [RURAL] area of the state, in accordance with regulations  
27 adopted under AS 16.05.268, for subsistence uses with gill net, seine, fish wheel, long line, or  
28 other means defined by the Board of Fisheries, except for rod and reel;

29 \* Sec. 6. AS 16.05.940(30) is amended to read:

30 (30) "subsistence hunting" means the taking [OF, HUNTING FOR,] or possession,  
31 by a qualified resident, of game [BY A RESIDENT DOMICILED] in a subsistence use

1 [RURAL] area of the state, in accordance with regulations adopted under AS 16.05.268, for  
2 subsistence uses by means defined by the Board of Game;

3 \* Sec. 7. AS 16.05.940(31) is amended to read:

4 (31) "subsistence [USES]" means the noncommercial, customary and traditional  
5 taking in a subsistence use area of the state, and the customary and traditional uses, of fish  
6 and game [WILD, RENEWABLE RESOURCES] by a resident [DOMICILED IN A RURAL  
7 AREA OF THE STATE] for direct, noncommercial, personal or family consumption as food,  
8 [SHELTER, FUEL,] clothing, [TOOLS,] or transportation, for the making and selling of  
9 handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal  
10 or family consumption, for noncommercial sharing, and for barter and [THE] customary trade  
11 of a portion of fish or game resources harvested primarily [, BARTER, OR SHARING] for  
12 personal or family consumption; in this paragraph, "family" means persons related by blood,  
13 marriage, or adoption, and a person living in the same household on a permanent basis;

14 \* Sec. 8. AS 16.05.940 is amended by adding new paragraphs to read:

15 (36) "customary and traditional" means the noncommercial, long term, consistent,  
16 and ongoing dependence on the taking and use of fish or game in a specific area and the use  
17 patterns and harvest levels of that fish or game that have been established over at least one  
18 preceding generation of users;

19 (37) "customary trade" means the limited, noncommercial exchange, for minimal  
20 amounts of cash, as restricted by the appropriate board, of fish or game resources harvested  
21 primarily for personal or family consumption; "customary trade" does not include sales in  
22 commercial channels; the terms of this paragraph do not restrict money sales of furs or  
23 furbearers;

24 (38) "game management unit" is the same as an area of the state established as  
25 a game management unit by the Board of Game under AS 16.05.255;

26 (39) "sustained yield" means the management principle of utilization,  
27 development, and maintenance, applied to naturally occurring fish and game resources, that  
28 provides beneficial consumptive uses in perpetuity, subject to preferences among such uses, and  
29 seeks to provide for desired population increases and prevent undesired declines, for the purpose  
30 of maintaining healthy, self-perpetuating stocks or populations.

31 \* Sec. 9. AS 16.05.258 and AS 16.05.940(26) are repealed.

1 \* Sec. 10. REGULATIONS. Notwithstanding the provisions of AS 16.05.258, the Board of Fisheries,  
2 Board of Game, and Department of Fish and Game shall adopt regulations necessary to implement the  
3 provisions of this Act.

4 \* Sec. 11. TRANSITION. (a) It is the intent of the legislature that the Board of Fisheries and the  
5 Board of Game expeditiously adopt regulations necessary to implement this Act.

6 (b) Any regulations adopted by the Board of Fisheries, Board of Game, or Department of Fish  
7 and Game after July 1, 1992, may not be inconsistent with the provisions of this Act.

8 (c) Regardless of whether regulations adopted under the authority of AS 16.05.251, 16.05.255,  
9 or 16.05.258 and in effect on July 1, 1992 are inconsistent with the provisions of this Act, they may  
10 continue to be implemented and enforced until the effective date of sec. 2 of this Act.

11 \* Sec. 12. REVIEW. (a) The legislature acknowledges and recognizes that this Act deals with a  
12 subject of vital concern and that the subject merits review. Therefore, it is the intent of the legislature  
13 that the operation of this Act and the regulations adopted under this Act be fully reviewed by the  
14 governor no later than June 1, 1994.

15 (b) This review period is intended to allow for further research and to gain experience in  
16 implementing the Act and regulations adopted under it. It is the intent of the legislature that the  
17 governor convene a representative group to provide recommendations to the governor before the end of  
18 the review period. It is the intent of the legislature that representatives of the legislature and persons  
19 with a history in the formulation of subsistence legislation in this state participate in the group.

20 (c) It is the intent of the legislature that the review under this section occur with public input  
21 and participation.

22 (d) No later than September 1, 1994, the governor shall provide a report to the legislature on  
23 the results of the review and any proposed recommendations for statutory amendments.

24 \* Sec. 13. Sections 10 and 11 of this Act take effect immediately under AS 01.10.070(c).

25 \* Sec. 14. Sections 1 - 9 and 12 of this Act take effect on the effective date of regulations first  
26 adopted under this Act by the Board of Fisheries and the Board of Game, acting jointly.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

June 19, 1992

WALTER J. HICKEL, GOVERNOR

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295

The Honorable Pat Pourchot  
Co-Chairman  
Senate Finance Committee  
Alaska State Legislature  
Juneau, AK 99801-1182

Dear Senator Pourchot:

At this morning's hearing on SB 484 and SB 485, the Senate Finance Committee inquired about the penalty if a person falsified his or her application for a "Tier II" subsistence permit.

Our criminal division advises that the overwhelming majority of violations of this nature are covered by AS 16.05.420. The penalty for such violations is included in Court Administration Rule 43.2, which is the fish and game bail forfeiture schedule. The schedule provides for a maximum bail forfeiture of \$200. Then cases are handled as citations and, in accordance with Rule 43.2, they are not handled as criminal cases.

State prosecutors rarely use AS 11.56.210, the unsworn falsification statute, for these kinds of cases and then only for the most egregious violations. Unsworn falsification is a class A misdemeanor and has a maximum penalty of one year imprisonment and a \$5,000 fine.

I have attached the relevant statutes and the Court Administration Rule for your information.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Richard I. Pegues*  
Richard I. Pegues, Director  
Administrative Services

CEC:RIP:djd

Attachments/3

2nd SS SFC-92 6/18/92  
Attachment A

DEPARTMENT OF LAW  
June 19, 1992

The following is a list of significant subsistence lawsuits, indicating in parenthesis after the case in what court they were filed, and by an asterisk preceding the cases which are still open:

1980

Tyonek (State Superior Court)  
Gjosund I (State Superior Court)  
Francis (State Superior Court)  
Ewan (State Superior Court)

1981

Gjosund II (State Superior Court)  
Madison (State Superior Court)

1982

Hydaburg (Federal District Court)  
Moonin (State District Court) (Year approximate)

1983

McDowell (State Superior Court)  
Madison (Alaska Supreme Court)

1984

Eluska (State District Court)  
Eluska (Court of Appeals)

1985

Bobby (Federal District Court)  
Eluska (State Supreme Court)

1986

Skuse (State District Court)  
John (Federal District Court)

Kenaitze (Federal District Court)

1987

McDowell (State Supreme Court)

Association of village Council Presidents (State Superior Court)

Kenaitze (Ninth Circuit Court of Appeals)

1988

Tanana Fish and Game Association (Federal District Court)

1989

Tanana Fish and Game Association (Ninth Circuit)

Kenaitze (United States Supreme Court)

Mills (Federal District Court)

Outdoor Council (Federal District Court)

Payton (State Superior Court)

\* Payton (State Supreme Court)

Dot Lake (State Superior Court)

\* Morry (State District or Superior Court)

\* Peninsula Marketing Association (State Superior Court)

1990

\* Kwethluk IRA Council (United States District Court)

\* Ketzler (Alaska Superior Court)

\* Kluti Kaah (United States District Court)

\* Shepherd (Alaska Superior Court)

1991

\* Tanana Fish and Game Ass'n (Alaska Superior Court)

\* Pitka (Alaska Superior Court)

\* Coy (Alaska Superior Court)

\* Interior Fish and Wildlife Ass'n (Alaska Superior Court)

- \* Nenana (Alaska Superior Court)
- \* Sorenson (Alaska Superior Court)
- \* John (II) (United States District Court)
- \* Native Village of Sleetmute (Alaska Superior Court)
- \* Sumner Strait Advisory Committee (Alaska Superior Court)
- \* Kluti Kaah (Alaska Superior Court)
- \* State v. Kluti Kaah (Alaska Supreme Court)
- \* Kenaitze Indian Tribe (Alaska Superior Court)
- \* United States v. Didrickson (United States District Court)

1992

- \* United Cook Inlet Drift Ass'n (Alaska Supreme Court)
- \* Cantwell (Alaska Superior Court)
- \* Ketzler (United State District Court)
- \* Native Village of Tooksook Bay (Alaska Superior Court)
- \* Native Village of Elim (Nome Superior Court)
- \* Fish and Game Fund v. State (United States District Court)

**SB 485**

6/20/92

CSSB 485 (SCW) WAS REPOTED OUT OF THE SENATE COMMITTEE OF THE WHOLE ON 6/18/92.

CSSB 485 (SCW) WAS REPOTED OUT OF THE SENATE FINANCE COMMITTEE ON 6/19/92 WITH THE FOLLOWING FISCAL NOTES:

**DEPT. OF FISH & GAME**

COMMERCIAL FISHERIES	\$33.2	6/15/92	(NEW NOTE)
SUBSISTENCE	\$285.4	6/15/92	(NEW NOTE)
BOARD SERVICES	\$495.0	6/19/92	(NEW NOTE)
WILDLIFE CONSERVATION	\$32.0	6/15/92	(NEW NOTE)
SPORT FISHERIES	\$18.0	6/15/92	(NEW NOTE)

**DEPT. OF PUBLIC SAFETY**

ENFORCEMENT & ISU	\$2.1	6/10/92	(PREVIOUS NOTE)
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**DEPARTMENT OF LAW**

OPERATIONS	\$116.5	6/12/92	(PREVIOUS NOTE)
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**COURT SYSTEM**

TRIAL COURTS	\$15.0	6/16/92	(PREVIOUS NOTE)
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\*\*\*THE FOLLOWING FISCAL NOTE SUBMITTED BY THE DEPT. OF FISH & GAME/BOARDS WAS REPLACED WITH REVISED NOTE ON 6/19/92.

**DEPT. OF FISH & GAME**

BOARD SERVICES	\$518.0	6/15/92	
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SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: 6/15/92

FURTHER:

*Fin added*

DATE TURNED INTO OFFICE:

Senate Committee of the Whole considered SB 485

Relating to the taking of fish and game for subsistence; efd.

and recommends:

replace with \_\_\_\_\_ CS SB 485 (C)

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

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*Charles Stungulowski No Rec*  
*Tracy Deace No Rec*

**NEW FISCAL NOTES:** Dept/Date

**zero** fiscal notes \_\_\_\_\_

fiscal notes \_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

**Governor's bill** with fiscal notes:

**zero** fiscal notes \_\_\_\_\_

fiscal notes \_\_\_\_\_

**DO PASS:**

*Al Adams*  
*[Signature]*  
*[Signature]*  
*[Signature]*

**OTHER RECOMMENDATIONS:**

*Shirley Craft No Rec*  
*[Signature] No Rec*  
*[Signature] No Rec*  
*[Signature] NO REC*  
*[Signature] NO REC*  
*[Signature] NO REC*  
*[Signature] NO REC*  
*[Signature] NO REC*

*J. Kestel*

Chair: Signature and Recommendation



# SENATE FINANCE COMMITTEE REPORT

DATE: 6/18/92

FURTHER:

DATE TURNED INTO OFFICE: 6/18/92

The Finance Committee considered SENATE BILL NO. 485

"An Act relating to the taking of fish and game for subsistence; and providing for an effective date."

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)  
or  adopt previous CS SB 485 (SCW)  
 attaches amendment(s) *repts it to be after*

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 <sup>①</sup> FIM - 491.0 =  
<sup>②</sup> FIM sub 285.4  
<sup>③</sup> FIM CF 33.2

appropriation - no fiscal note

DO PASS: <sup>④</sup> FIM NL 32.0  
<sup>⑤</sup> FIM SF 11.0

*[Signatures]*

1. *[Signature]*  
Co-Chair: Signature/Recommendation

**PREVIOUS FISCAL NOTES:** Dept/Date

zero fiscal notes #6 DPS = 2.1  
#7 LAW 116.5  
#8 Court 15.0

fiscal notes \_\_\_\_\_

**OTHER RECOMMENDATIONS:**  
*[Signatures]*

2. *[Signature]*  
Co-Chair: Signature/Recommendation

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

REPORTED OUT OF  
FISCAL NOTE 6/19/92  
SFC

(HB 592)\*  
BILL NO. AFN B11

Revision Date: \_\_\_\_\_

\*Introduced during 1992 regular session

Department Affected: Fish and Game

Title: Subsistence taking of fish and game

BRU: Commercial Fisheries

Component: Commercial Fisheries

Sponsor: House Resources

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

COMPONENT SERIAL NO. 

4	5	9
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OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	31.2	32.4	33.7	35.1	36.5	38.0
CONTRACTUAL	1.0	1.0	1.1	1.1	1.2	1.2
SUPPLIES	1.0	1.0	1.1	1.1	1.2	1.2
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	33.2	34.4	35.9	37.3	38.9	40.4

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	33.2	34.4	35.9	37.3	38.9	40.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	33.2	34.4	35.9	37.3	38.9	40.4

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: None

ANALYSIS: (Attach a separate page if necessary.)

Creation of a Subsistence Board will result in about 20 more board meetings days per year in which in which the division will have to participate. Figures reflect 4% increase for inflation.

Prepared By: Bob Clasby

Phone: 465-4210

Division: Commercial Fisheries

Date: 6/14/92

Approved by Commissioner: Clayton L. Harrison

Agency: Department of Fish and Game

Date: 6/15/92

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

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

FISCAL NOTE **REPORTED OUT OF**  
SFC 6/19/92 (HB 592)\*  
BILL NO. AFN

\*Introduced during 1992 regular session

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game

Title: An Act Relating to the taking BRU: Subsistence

of fish and game for Subsistence Component: Subsistence

Sponsor: House Resources

Requestor: House Resources COMPONENT SERIAL NO. 

	4	8	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	229.9	222.4	218.4	193.8	200.3	206.8
TRAVEL	8.5	7.5	6.5	5.5	5.5	5.5
CONTRACTUAL	27.5	25.5	23.5	22.0	22.0	22.0
SUPPLIES	2.5	2.5	2.5	2.5	2.5	2.5
EQUIPMENT	17.0	3.0	3.0	2.5	2.5	2.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	285.4	260.9	253.9	226.3	232.8	239.3

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

GENERAL FUND	285.4	260.9	253.9	226.3	232.8	239.3
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	285.4	260.9	253.9	226.3	232.8	239.3

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME	3.0	3.0	2.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year impact: No impact in FY92.

ANALYSIS: Creates an individual application system for urban residents, with costs similar to the Consensus Bill.

Prepared By: Robert Bosworth *RB* Phone: 465-4147

Division: Division of Subsistence Date: 6/15/92

Approved by Commissioner: Carl Z. Rosier

Agency: Department of Fish and Game Date: 6/15/92

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

FISCAL NOTE ANALYSIS: Division of Subsistence

**Development of a Subsistence Permitting Program:**

**OVERVIEW:**

The AFN/Bush Caucus subsistence bill creates a new system by which subsistence qualification criteria are applied to individual applicants in the urbanized areas of Alaska. We assume that the implementation of this qualification process will be a procedure identical to that of the Subsistence Council bill. This individual application system is expected to draw in excess of 10,000 applicants in the first year or two, and a lesser number of applicants thereafter. Implementation of the proposed subsistence permitting program is anticipated to have a cost of \$285,378 for the first year, FY 93. By FY 98, the cost is expected to have dropped to \$239,342 as the permitting system assumes a normal regulatory presence and acceptance. A subsistence application program staff, with initial support from other Division of Subsistence staff, will have responsibility for the preparation, distribution, scoring, and issuing of subsistence permits. In addition, the staff will review applications for completeness and accuracy, evaluate responses, and hold findings of fact in disagreements involving issuance of permits.

**PROCESS:**

The unit charged with issuing subsistence permits will consist of a core of four individuals: a hearing officer, an analyst/programmer, a data processing clerk, and a clerk typist. Duties of the staff relate to two primary functions, (1) the mechanics of issuing permits and (2) the rectification of disagreements. The issuance of permits requires the design and printing of applications, a distribution system to provide the public with ready access to the applications, a means to rapidly evaluate applications, and issue permits to qualified applicants. The rectification of disagreements over the issuance of permits requires a systematic process in which applicants have adequate recourse to resolving disputes prior to seeking judicial relief.

To provide the applicant with the greatest opportunity of receiving the benefits to which they are entitled, the permitting system provides a series of safe guards. The oversight process begins with receipt of the application and its initial review. Applications lacking vital information or incomplete responses will be returned with letters of explanation. Applicants who do not receive a permit as confirmation of meeting the subsistence criteria will receive notification of their rejection and the opportunity to provide additional support to their claim of subsistence priority. If the unsuccessful applicant provides additional support, the application will be re-evaluated and the applicant informed of the results. Should the applicant still be rejected, they may seek an appearance before the hearing officer in order to determine the facts of the case. If the hearing officer still decides against the applicant, the applicant can appeal to the Commissioner of Fish and Game. In the event the Commissioner affirms the original denial, the decision would be final for the Department and the applicant could appeal to the state Superior Court.

**CORE STAFFING:**

**Hearing Officer:** The hearing officer (HO) is a range 21 employee with responsibilities for determining findings of facts. This position will design and implement the necessary procedures to see that the intent of the legislation is met and that applicants who are denied a subsistence permit are assured of due process. The position receives clerical support from the clerk typist position and investigative support from the analyst programmer position.

**Analyst Programmer III:** The analyst programmer (A/P III) is a range 17 with responsibilities for the design of the application, creation of the necessary data management procedures and programs, and the collection of administrative information relevant to the applicant. Using hunting license and permit information within the Department of Fish and Game, the programmer will provide the hearing officer with data relevant to applications in dispute. The position will also undertake a random review of successful awardee to ensure that the system is meeting its objective of providing a subsistence priority to qualified applicants. The analyst/programmer will have co-responsibility with the hearing officer for preparation of documentation on applicant cases. The position will provide immediate supervision of the data processing clerk and those functions of clerk exclusive of the hearing process.

**Data Processing Clerk II:** The data processing clerk II (DPC II) is a range 9 with responsibilities for the accurate review and entry of information provided by the applicant. Following data entry, the position will archive all materials in accordance with administrative procedures. As required, the data processing clerk will provide support for the distribution of applications and permits.

**Clerk III:** The clerk III is a range 9 with responsibilities for maintaining administrative functions of the unit, responding to public inquiries, and facilitating the activities of the hearing officer through the recording and preparation of transcripts of all hearings.

#### **SUPPORT STAFF:**

During the initial years of the program, the unit will draw upon some staff resources of the Division of Subsistence. The Division's current research director and AP IV will develop and analyze options for the subsistence application and scoring system for presentation to the Boards of Fisheries and Game, who are authorized in the bill to finalize the application and scoring system. These and other support functions will be subsumed within the Division's current budget. Subsistence Resource Specialist (SRS) IIs and clerical staff will provide regional support in facilitating the public's awareness of the process and responding to inquiries of local residents. In the first year, eight months of SRS support is provided. This drops to four months in the second year, and a single month in the third year. After the third year, the permitting process will involve only the core, four-member staff.

#### **BUDGET--Division of Subsistence:**

##### **FY 93**

The initial budget provides for three full time employees: the analyst/programmer III, the data processing clerk II, and the clerk III. This group will prepare and distribute the application forms, respond to public inquiries, and score the applications received. The hearing officer will be brought onto staff immediately prior to the receipt of applications. With the subsistence permitting unit based in Anchorage, additional regional support to respond to public inquiries will be provided by subsistence resource specialists (SRS) and clerical staff (C III) in other regions of the state. Funding in the amount of four months each is provided for each of the two employee classes. Total personnel costs are projected at \$229,878.

A travel budget of \$8,500 provides opportunities for program outreach in affected portions of the state, and the appearance of the hearing officer for hearings as required.

Contractual services for the printing and distribution of applications, permits, and other correspondence, and communications totals \$27,500. Total contractual expenses are \$27,500.

Providing for office expendibles will entail \$2,500 per year. The creation of a new organization requires the acquisition of the necessary equipment and furniture to allow the staff to perform their required functions. Seventeen thousand dollars (\$17,000) is designated to meet this one-time need for equipment.

The total budget for the first year of operation is \$300,378.

**FY 94:**

Staff expenses during the second year decline to \$222,416 as the additional SRS and clerical support is reduced. An additional \$3,000 reduction occurs for lines 200 and 300 (travel and services) as the number of applicants declines. Equipment expenses decline to \$3,000. The total cost of implementing the program in the second year is \$260,916, a reduction of over 8% from the previous year.

**FY 95:**

Further personnel savings accrue during the third year as outside support is reduced to a single month of SRS time. Travel and services decline by an additional \$3,000. Supplies and equipment expenses are unchanged from the previous year. The total cost of program implementation in the third year is \$253,921, a reduction of 2.5% from the previous year.

**FY 96:**

The third year is projected to show a decline of nearly \$25,000 in personnel costs from the previous year as outside assistance is eliminated and the hearing officer position reduced to half-time as the need for additional rectification declines. Supplies and services decline by another \$2,500. The total program cost for the year is \$226,315, a 10% reduction from the prior year.

**FY 97 and FY 98:**

No additional personnel savings are projected as the program is managed by three and a half full time employees. All other expenditures remain stable. In FY 97, the budget is \$232,828, and in FY 98 it is \$239,342. The modest increment is due to personnel longevity charges.

STATE OF ALASKA  
1992 LEGISLATIVE SESSION SFC

FISCAL NOTE  
REPORTED OUT OF

6/19/92

No. 1

Bill Version: CSSB 485 (SCU)

(S) Publish Date: 6-19-92

Revision Date: 6/18/92

Department Affected: Fish and Game

Title: An Act relating to the taking  
of fish and game for subsistence;

BRU: Boards

Component: Board Services

Sponsor: Sen. Adams, Hoffman

Requestor: Finance

COMPONENT SERIAL NO. 

4	8	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	130.0	135.0	140.0	145.0	145.0	145.0
TRAVEL	240.0	249.0	230.0	200.0	200.0	200.0
CONTRACTUAL	120.0	137.0	132.0	120.0	120.0	120.0
SUPPLIES	5.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	495.0	523.0	504.0	467.0	467.0	467.0

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

GENERAL FUND	495.0	523.0	504.0	467.0	467.0	467.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	495.0	523.0	504.0	467.0	467.0	467.0

POSITIONS:

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

Estimate of current year impact: no FY92 fiscal impact

ANALYSIS: (Attach a separate page if necessary.)  
See attached.

Prepared By: Beverly Reaume *Beverly Reaume*

Phone: 465-4110

Division: Boards of Fisheries and Game

Date: 6/19/92

Approved by Commissioner: *Tom Bourville for*

Agency: Department of Fish and Game

Date: 6/19/92

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

## DIVISION OF BOARDS

### ANALYSIS

The Board of Fisheries and the Board of Game meeting individually and together as the Joint Board would require approximately seventy days of meetings over a three year period to implement CSSB485. In future years, the new bill would add approximately ten days to the overall board schedule. This estimate is based on board consideration of rural designations and customary and traditional use during the 1980s. It is important to note that since 1989 both boards have deferred most proposals dealing with subsistence in anticipation of legislation that would allow for a defensible approach to proposals. Over this same time period there have been reductions in the Division of Boards budget that have reduced the capability of the boards to meet. With the advent of new subsistence legislation, the boards will have to deal with subsistence issues as well as maintaining a full workload in other regulatory areas.

The items in the proposed legislation requiring the greatest effort on the part of the boards, in descending order, are:

- I. "The boards shall identify by regulation  
(a)(1) communities and areas of the state that qualify as rural areas under this paragraph as follows:  
(A) through (F)..."

#### 15 DAYS

- II (b) The boards shall identify, by regulation, for each rural and urban area of the state,  
(1) through (4)..."

#### 40 DAYS

- III (a)(2) "the criteria for identifying those residents who qualify as urban subsistence users because they  
(A) and (B)..."

#### 10 DAYS

Other items affecting cost estimates:

(a) The proposed legislation would require action by the Regional Councils which are currently unfunded in the Division of Boards budget. This analysis allows for approximately five meeting days each year.

(b) There will be a substantial increase in Advisory Committee activity during implementation of the plan.

(c) If the bill were to bring the state into compliance with ANILCA, we could anticipate that a portion and perhaps all of the funding required could come from the federal government. ..

(d) Estimated costs include the re-establishment of two regional coordinators eliminated in the FY93 budget. With the loss of federal funding, Boards Division has eliminated two regional coordinators in the FY93 budget. The cost estimates include reactivation of these two coordinators. The regional coordinators are essential to provide for increased advisory committee meetings and reactivation of regional councils. Implementation will add at least one more meeting for each advisory committee and one to two meetings for each regional council. This increase, plus increased board meeting days, are beyond staff's capability to provide adequate support.

COSTS - FY93

<u>Personal Services:</u>	130.0
overtime for existing staff	
two regional coordinators	
<u>Travel:</u>	240.0
travel and per diem for board members,	
Boards staff, and advisory committee	
meetings	
<u>Contractual:</u>	120.0
meeting space, printing and postage for	
proposal books, telephone and legal	
notice of meetings	
<u>Supplies:</u>	5.0
office supplies	
<b>TOTAL</b>	<b><u>495.0</u></b>

COSTS - FY94:

Personal Services	135.0
Travel	249.0
Contractual	137.0
Supplies	2.0
<b>TOTAL</b>	<b><u>523.0</u></b>

COSTS - FY95:

Personal Services	140.0
Travel	230.0
Contractual	132.0
Supplies	2.0
<b>TOTAL</b>	<b><u>504.0</u></b>

COSTS - FUTURE YEARS

Personal Services	145.0
Travel	200.0
Contractual	120.0
Supplies	2.0
<b>TOTAL</b>	<b><u>467.0</u></b>

REPORTED OUT OF

SFC 6/19/92

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 592\*

Revision Date: \_\_\_\_\_

\*Introduced during 1992 regular session

Department Affected: Fish and Game

Title: An Act relating to the taking of  
fish and game for subsistence

BRU: Wildlife Conservation

Component: Wildlife Conservation

Sponsor: (H) Resources

Requestor: (H) Resources

COMPONENT SERIAL NO. 

4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0			
TRAVEL	32.0	33.2	34.6			
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	32.0	33.2	34.6			

CAPITAL	0	0	0			
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REVENUE FUND SOURCE: 1024	0	0	0			
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FUNDING: (Thousands of Dollars)

GENERAL FUND	32.0	33.2	34.6			
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	32.0	33.2	34.6			

POSITIONS:

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

Estimate of current year impact: No FY92 impact.

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared By: Wayne L. Regelin *Wayne Regelin* Phone: 465-4190

Division: Division of Wildlife Conservation Date: 6/10/92

Approved by Commissioner: Carl A. Rosier

Agency: Department of Fish and Game Date: 6/15/92

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

DIVISION OF WILDLIFE CONSERVATION  
Fiscal Analysis for Subsistence Management

AFN Bill (HB592)

<u>Personal Services:</u>	<u>FY93</u>	<u>FY94</u>	<u>FY95</u>
diversion of staff time to other tasks (e.g., increased attendance by area biologists at additional advisory committee meetings, board meetings, and in compilation of survey and inventory reports) will result in decreased efforts for game management	0	0	0
 <u>Travel:</u>			
travel and per diem for the director, deputy director, appropriate regional supervisors, management coordinators and area biologists for approximately 65 additional days of Subsistence Board, Board of Game, and Joint Board meetings	27.0	28.1	29.2
 travel and per diem for area biologists to attend additional advisory committee meetings held in response to creation of federal subsistence board	5.0	5.2	5.4
 TOTAL*	32.0	33.2	34.6

\*In addition to these costs, the department would lose \$160.0 in federal money currently used for salary, travel, and data processing expenses of the division's Federal Subsistence Board Coordinator.

SIC 6/19/92 \*Introduced during 1992 regular session

Revision Date: \_\_\_\_\_

Department Affected: Fish and Game

Title: An Act Relating to Taking of Fish and Game

BRU: Sport Fish

Sponsor: House Resources

Component: Sport Fisheries

Requestor: House Resources

COMPONENT SERIAL NO.

4	6	4
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	13.5	14.0	14.6	15.2	15.8	16.4
TRAVEL	4.5	4.7	4.9	5.0	5.3	5.5
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>18.0</b>	<b>18.7</b>	<b>19.5</b>	<b>20.2</b>	<b>21.1</b>	<b>21.9</b>

CAPITAL	18.0	18.7	19.5	20.2	21.1	21.9
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	18.0	18.7	19.5	20.2	21.1	21.9
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER FUND SOURCE:						
<b>TOTAL</b>	<b>18.0</b>	<b>18.7</b>	<b>19.5</b>	<b>20.2</b>	<b>21.1</b>	<b>21.9</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year Impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

It is assumed that this bill will have an effect similar to that of the consensus bill: i.e. state and federal management roles will be clarified and a person's eligibility to participate in subsistence fisheries will be defined. However, a separate board to deal with subsistence issues will add additional staff time and board meeting days at the subsistence board as well as the regular board of fisheries which will be required to modify sport and personal use fish regulations and management policies in response to regulatory actions of the subsistence board. **STAFF ATTENDANCE AND PREPARATION FOR BOARD MEETINGS: 12 extra days for 3-4 staff members = \$18.0**

Prepared By: Rocky Holmes *R. Holmes*

Phone: 465-4180

Division: Division of Sport Fish

Date: 6/15/92

Approved by Commissioner: *Paul J. Kosiv*

Agency: Department of Fish and Game

Date: 6/15/92

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 592 \*

1992 LEGISLATIVE SESSION

REPORTED OUT OF \*Introduced during 1992 regular session  
SFC 6/19/92

Revision Date: \_\_\_\_\_ Department Affected: Public Safety

Title: "An Act relating to the taking of BRU: Fish & Wildlife Protection

fish and game for subsistence. " Component: Enforcement & ISU

Sponsor: House Resources Committee

Requestor: Senator Adams COMPONENT SERIAL NO. 

4	9	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL	2.1	2.1	2.1	2.1	2.1	2.1
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	2.1	2.1	2.1	2.1	2.1	2.1
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
<b>TOTAL</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>

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: None

ANALYSIS: (Attach a separate page if necessary.)  
See attached analysis.

Prepared By: Captain Conrad G. Seibel Phone: 269-5509

Division: Fish & Wildlife Protection Date: 6/5/92

Approved by Commissioner: *Angela A. Hootch* for Richard L. Burton

Agency: Department of Public Safety Date: 6/10/92

Department of Public Safety  
Fiscal Note Analysis - HB 592  
Page 2 of 2

Passage of this bill would establish a Subsistence Board to promulgate regulations pertaining to the subsistence take of fish and game in the state. This fiscal note shows the cost of sending a representative of the Division of Fish and Wildlife Protection to attend the Subsistence Board meetings. Costs were projected for:

2 trips at \$350 each	\$ 700
14 days per diem at \$100	<u>1,400</u>
Total	\$2,100



## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 592

This bill amends AS 16.05 and AS 16.20 to give subsistence use of fish and game a preference over other consumptive use of the state's fish and game resources. In this respect, the bill is similar to Governor Hickel's subsistence proposal. For instance, both bills use community characteristics in part to determine eligibility, and the bills both recognize an urban as well as a rural need for a subsistence preference, under certain circumstances. HB 592, however, establishes a "Subsistence Board" that would implement and regulate the subsistence uses of fish and game, rather than using the existing frameworks of the Boards of Fish and Game for these purposes.

In any event, either of these approaches will have a fiscal impact for the Department of Law because of the controversies that have historically surrounded and continue to surround subsistence preference laws. It should therefore be expected that this bill will be vigorously challenged in court if it is enacted. Although HB 592 may eliminate many uncertainties that currently involve subsistence, the bill will have a significant, ongoing fiscal impact on our department over the first four of five years of implementation. That is because the department must defend the bill against court challenges, assist the Board of Subsistence in drafting, and then reviewing, a substantial body of evolving regulations, and also advise and defend the Department of Fish and Game in disputes resulting from adverse preference qualification determinations. Moreover, the bill's establishment of a Subsistence Board as a co-equal to the existing Boards of Fish and Game, will probably result in bureaucratic turf wars as the three boards compete for authority. Consequently, the Department of Law will require the additional services of one attorney at a minimum.

It is important to note that the department has handled 47 litigation matters involving subsistence preference, since the state passed its first subsistence law in 1980. During the past two years, the department has devoted approximately 1,500+ attorney hours each year to handle these matters, several of which are still ongoing. Budget reductions in the coming fiscal year will cause the loss of three of the twelve general fund attorney positions that handle natural resources matters, including subsistence. Thus, it is imperative that a new attorney position be approved to handle the legal work that will be necessary to defend and help carry out the subsistence plan provided in this bill.

Position Title Attorney IV		No. of Positions 1	Range / Step 24A	Darg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7 through 15
TYPE OF EXPENDITURE		AMOUNT		
Salary		64,056		
Benefits		20,969		
Premium Pay				
Other				
Total Personal Services		85,025		
Travel		5,000		
Contractual		17,600		
Commodities		2,400		
Equipment		6,500		
Other				
Total Cost		116,525		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		116,525		
I-A Receipts 1007				
CIP Receipts 1061				
Other				
Justification Implementation of the subsistence preference law contained in HB 592 will require the full-time services of an attorney to handle: (1) court challenges of the law; (2) drafting and reviewing of a substantial body of regulations; and (3) representation of ADF&G and the Subsistence Board in disputes resulting from adverse preference qualification determinations. All of this work will require journey-level services of an Attorney IV.				

# Request For New Position

AGENCY DEPARTMENT OF LAW  
 BRU Legal Services  
 COMPONENT Operations

FY 93

Page 1 of 1  
 Revised Date: \_\_\_\_\_

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

REPORTED OUT OF  
SFC 6/19/92

Bill No. SB 485

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to subsistence... BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Adams  
 Requestor: \_\_\_\_\_ 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	15.0	10.0	5.0	2.5	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	15.0	10.0	5.0	2.5	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	15.0	10.0	5.0	2.5	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	15.0	10.0	5.0	2.5	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228  
 Division: Alaska Court System Date: 06/16/92  
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 06/18/92  
 Agency: Alaska Court System

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

Alaska Court SystemSB 485Analysis

## ANALYSIS

This legislation provides a statutory priority for subsistence use of fish and game, relative to other consumptive uses of the state's fish and game resources.

Because of the continuing controversies surrounding this issue, it can be anticipated that the bill will face a vigorous legal challenge if it is enacted. It can also be anticipated that regulations adopted to implement this legislation will face legal challenge.

The fiscal note reflects pro tem judge costs that will be incurred in handling these matters expeditiously.

CS FOR SENATE BILL NO. 485 (SCW)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE COMMITTEE OF THE WHOLE

Offered: 6/18/92  
Referred: Finance

Sponsor(s): SENATORS ADAMS, Hoffman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the taking of fish and game for subsistence; and providing  
2 for an effective date."

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

4 \* Section 1. FINDINGS. The legislature finds that

5 (1) the overwhelming majority of residents of rural areas of the state, both  
6 Alaska Natives and non-Natives, rely upon the subsistence use of fish and game for  
7 nutritional, economic, social, and cultural purposes;

8 (2) residents of rural areas of the state have few nutritional and economic  
9 alternatives for maintaining their livelihood other than subsistence uses of fish and wildlife;

10 (3) the state's fish and game are not unlimited and cannot provide for every  
11 desired use, now or in the future; competition for and the level of effort on these resources  
12 have required the legislature to establish a preference for subsistence among the various  
13 beneficial uses of fish and game in the state; and

14 (4) residents of urban areas of the state have nutritional and economic

1 alternatives for maintaining their livelihood other than subsistence uses of fish and wildlife,  
2 though many residents of urban areas do rely upon the taking of fish and wildlife for  
3 nutritional and cultural purposes.

4 \* Sec. 2. AS 16.05.094 is amended to read:

5 Sec. 16.05.094. DUTIES OF SECTION OF SUBSISTENCE HUNTING AND  
6 FISHING. The section of subsistence hunting and fishing shall

7 (1) compile existing data and conduct studies to gather information,  
8 including data from subsistence users and urban subsistence users, on all aspects of  
9 the role of subsistence hunting and fishing in the lives of the rural and urban  
10 residents of the state;

11 (2) quantify the amount, nutritional value, and extent of dependence  
12 on food acquired through subsistence hunting and fishing by rural and urban  
13 residents of the state;

14 (3) make information gathered available to the public, appropriate  
15 agencies, and other organized bodies;

16 (4) assist the department [, THE BOARD OF FISHERIES,] and the  
17 boards [BOARD OF GAME] in determining what uses of fish and game, as well as  
18 which users and what methods, should be termed subsistence uses, users, and  
19 methods;

20 (5) evaluate the impact of state and federal laws and regulations on  
21 subsistence hunting and fishing and, when corrective action is indicated, make  
22 recommendations to the department;

23 (6) make recommendations to the boards [BOARD OF GAME AND  
24 THE BOARD OF FISHERIES] regarding adoption, amendment, and repeal of  
25 regulations affecting subsistence hunting and fishing and urban subsistence hunting  
26 and fishing;

27 (7) participate with other divisions in the preparation of statewide and  
28 regional management plans so that those plans recognize and incorporate the needs  
29 of rural and urban subsistence users of fish and game.

30 \* Sec. 3. AS 16.05.258 is repealed and reenacted to read:

31 Sec. 16.05.258. SUBSISTENCE AND ALLOCATION OF FISH AND

1 GAME. (a) The boards shall jointly identify by regulation

2 (1) communities and areas of the state that qualify as rural areas under  
3 this paragraph as follows:

4 (A) a community or area with a population of 2,500 persons  
5 or less is a rural area unless the board determines that the community or area  
6 possesses significant characteristics of an urban nature or is a part of an  
7 urbanized area;

8 (B) a community or area with a population of more than 2,500  
9 persons but not more than 7,000 persons shall be classified as a rural area or  
10 urban area according to the characteristics identified under (E) of this  
11 paragraph; the board shall classify communities and areas of more than 2,500  
12 persons but not more than 7,000 persons before classifying other communities  
13 and areas;

14 (C) a community or area with a population of more than 7,000  
15 persons is presumed to be an urban area, unless the board determines that the  
16 community or area should be classified as a rural area because the community  
17 or area possesses significant characteristics of a rural area;

18 (D) the population of a community or area is determined  
19 according to the most recent census conducted by the United States Bureau of  
20 the Census as updated by the Department of Labor;

21 (E) community or area characteristics shall be considered in  
22 determining whether the community or area is a rural area or urban area; the  
23 characteristics that may be considered include fish and game use, development  
24 and diversity of the economy, transportation, communication links, community  
25 infrastructure, and educational, cultural, and governmental institutions;

26 (F) communities or areas that are economically, socially, and  
27 communally integrated shall be considered in the aggregate;

28 (2) the criteria for identifying those residents who qualify as urban  
29 subsistence users because they

30 (A) are residents of a community or area that has a nutritional  
31 or cultural dependence upon wild renewable resources for urban subsistence

1 uses; or

2 (B) can individually demonstrate that they have a nutritional  
3 or cultural dependence upon wild renewable resources for urban subsistence  
4 uses.

5 (b) The boards shall identify, by regulation, for each rural and urban area of  
6 the state,

7 (1) the fish stocks and game populations that are taken for subsistence  
8 uses or urban subsistence uses;

9 (2) the customary and traditional patterns of taking and use of fish  
10 stocks and game populations taken for subsistence uses or urban subsistence uses;

11 (3) what portion, if any, of the fish stocks and game populations  
12 identified in (1) of this subsection can be harvested consistent with sustained yield;

13 (4) how much of the harvestable portion of a fish stock or game  
14 population identified in (3) of this subsection is needed to satisfy subsistence uses and  
15 urban subsistence uses of the fish stock or game population.

16 (c) The boards shall adopt subsistence fishing and hunting regulations for each  
17 fish stock and game population for which a harvestable portion is determined to exist  
18 under (b) of this section. Regulations adopted by a board under this subsection must  
19 provide, to the extent consistent with sustained yield, for the customary and traditional  
20 uses and practices of residents who engage in subsistence uses in a manner that will  
21 result in the least adverse effect upon those uses. If the harvestable portion of a fish  
22 stock or game population is not sufficient to accommodate all consumptive uses of  
23 the fish stock or game population, but is sufficient to accommodate subsistence uses  
24 of the fish stock or game population, then nonwasteful subsistence uses shall be  
25 accorded a preference over other consumptive uses, including urban subsistence uses,  
26 of the fish stock or game population. If it is necessary to restrict subsistence fishing  
27 or subsistence hunting in order to assure sustained yield or to continue subsistence  
28 uses of the fish stock or game population, then the preference for subsistence uses  
29 shall be limited, and the appropriate board shall distinguish among subsistence users,  
30 by applying the following criteria:

31 (1) customary and direct dependence on the fish stock or game

1 population as the mainstay of livelihood;

2 (2) local residency; and

3 (3) availability of alternative resources.

4 (d) If the harvestable portion of a fish stock or game population, as identified  
5 under (b) of this section is sufficient to accommodate consumptive uses in addition  
6 to subsistence uses, the appropriate board shall adopt regulations consistent with this  
7 section that authorize the taking of the fish stock or game population for urban  
8 subsistence uses and may, as appropriate, adopt regulations consistent with this section  
9 that authorize the taking of the fish stock or game population for other consumptive  
10 uses.

11 (e) Regulations adopted by a board under (d) of this section may not authorize  
12 a level of nonsubsistence hunting or fishing that would deny subsistence users the  
13 opportunity to satisfy subsistence uses or urban subsistence uses due to overcrowding  
14 in harvest areas or disruption of fish stocks or game populations.

15 (f) Regulations adopted under (d) of this section must provide for the taking  
16 of all, or a portion, of the remainder of the harvestable portion of a fish stock or game  
17 population for urban subsistence uses and must provide that the taking of a fish stock  
18 or game population for urban subsistence uses has a preference over the taking of the  
19 fish stock or game population for nonsubsistence consumptive uses. If the harvestable  
20 portion of a fish stock or game population available for urban subsistence uses is not  
21 sufficient to accommodate all urban subsistence users, the appropriate board shall  
22 determine which urban subsistence users may participate in the taking of the fish  
23 stock or game population for urban subsistence uses on the basis of

24 (1) customary and direct dependence on the fish stock or game  
25 population as the mainstay of livelihood;

26 (2) local residency; and

27 (3) availability of alternative resources.

28 (g) Subject to (c) of this section, the taking of fish or game authorized under  
29 this section is subject to reasonable regulation of seasons, catch or bag limits, and  
30 methods and means by the appropriate board. The taking and use of fish and game  
31 authorized under this section is subject to AS 16.05.831 and AS 16.30.

1 (h) If the harvestable portion of a fish stock or game population is insufficient  
2 to provide for subsistence uses, urban subsistence uses, and nonsubsistence  
3 consumptive uses, the department and advisory committee members representing  
4 affected subsistence users, urban subsistence users, and nonsubsistence users shall  
5 develop a cooperative management plan to facilitate the recovery of the fish stock or  
6 game population to allow for increased consumptive use of the fish stock or game  
7 population. The cooperative management plan must contain recommendations to the  
8 appropriate board for necessary changes in regulations. If the subsistence uses or  
9 urban subsistence uses of a fish stock or game population have been eliminated to  
10 achieve sustained yield, the appropriate board shall adopt regulations to allow  
11 subsistence harvest of the fish stock or game population as soon as the board has  
12 determined there is a harvestable portion consistent with sustained yield.

13 (i) In this section, "community" means a group of people who can  
14 demonstrate a sustained interaction or significant relationship that differentiate  
15 members of the group from nonmembers; "community" shall be construed in the  
16 context of the history, geography, and cultural organization of the group.

17 \* Sec. 4. AS 16.05.260 is amended by adding new subsections to read:

18 (b) The boards, acting jointly, shall divide the state into at least six  
19 subsistence regions. The number and boundaries of the regions must be sufficient to  
20 assure that regional differences in subsistence uses and urban subsistence uses of fish  
21 and game are adequately accommodated. The commissioner shall establish a regional  
22 council in each subsistence region. The membership of each regional council consists  
23 of the chair, or the chair's designee, of each advisory committee within the region.

24 (c) Each regional council, in consultation with the section of subsistence  
25 hunting and fishing, shall provide recommendations to the boards on the  
26 identifications and regulations required under AS 16.05.258. The board shall adopt  
27 a recommendation of a regional council unless the recommendation is not supported  
28 by substantial evidence presented during the course of its proceedings, violates  
29 recognized principles of fish and wildlife conservation, or would be detrimental to the  
30 satisfaction of subsistence needs. If the board does not follow the recommendation  
31 of a regional council, the board shall return the recommendation with an explanation

1 of its reason for not adopting the recommendation to the regional council for further  
2 consideration.

3 \* Sec. 5. AS 16.05.330(c) is amended to read:

4 (c) The boards [BOARD OF FISHERIES AND THE BOARD OF GAME]  
5 may adopt regulations providing for the issuance and expiration of subsistence permits  
6 for areas, villages, communities, groups, or individuals as needed for authorizing,  
7 regulating, and monitoring the subsistence harvest of fish and game by subsistence  
8 users or urban subsistence users. The boards shall adopt these regulations when the  
9 subsistence preference requires a reduction in the harvest of a fish stock or game  
10 population by subsistence users, urban subsistence users, or nonsubsistence users.

11 \* Sec. 6. AS 16.05.940(26) is repealed and reenacted to read:

12 (26) "rural area" means a community or area of the state classified as  
13 rural by the Board of Fisheries and Board of Game;

14 \* Sec. 7. AS 16.05.940(29) is repealed and reenacted to read:

15 (29) "subsistence fishing" means the taking of, fishing for, or  
16 possession of fish, shellfish, or other fisheries resources by a resident domiciled in a  
17 rural area of the state for subsistence uses with gill net, seine, fish wheel, long line,  
18 or other means defined by the Board of Fisheries;

19 \* Sec. 8. AS 16.05.940(30) is repealed and reenacted to read:

20 (30) "subsistence hunting" means the taking of, hunting for, or  
21 possession of game by a resident domiciled in a rural area of the state for subsistence  
22 uses by means defined by the Board of Game;

23 \* Sec. 9. AS 16.05.940(31) is repealed and reenacted to read:

24 (31) "subsistence uses" means the noncommercial, customary, and  
25 traditional uses of wild, renewable resources by a resident domiciled in a rural area  
26 of the state for direct personal or family consumption as food, shelter, fuel, clothing,  
27 tools, or transportation, for the making and selling of handicraft articles out of  
28 nonedible by-products of fish and game resources taken for personal or family  
29 consumption, and for the customary trade, barter, or sharing for personal or family  
30 consumption; in this paragraph, "family" means persons related by blood, marriage,  
31 or adoption, and includes a person living in the household on a permanent basis;

1       \* Sec. 10. AS 16.05.940 is amended by adding new paragraphs to read:

2                   (36) "urban subsistence fishing" means the taking of, fishing for, or  
3       possession of fish, shellfish, or other fisheries resources by a resident who is  
4       domiciled in an urban area of the state for urban subsistence uses with gill net, seine,  
5       fish wheel, long line, or other means defined by the Board of Fisheries;

6                   (37) "urban subsistence hunting" means the taking of, hunting for, or  
7       possession of game by a resident who is domiciled in an urban area of the state for  
8       urban subsistence uses by means defined by the Board of Game;

9                   (38) "urban subsistence uses" means the noncommercial, customary,  
10       and traditional uses of wild, renewable resources by a resident of the state domiciled  
11       in an urban area of the state for direct personal or family consumption as food,  
12       shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft  
13       articles out of nonedible by-products of fish and game resources taken for personal  
14       or family consumption, and for the customary trade, barter, or sharing for personal or  
15       family consumption; in this paragraph, "family" means persons related by blood,  
16       marriage, or adoption, and includes a person living in the household on a permanent  
17       basis;

18                   (39) "urban area" means a community or area that has not been  
19       classified as a rural area by the Board of Fisheries and Board of Game.

20       \* Sec. 11. This Act takes effect on the effective date of a constitutional amendment  
21       authorizing rural and urban subsistence uses of fish and game that is approved by the voters  
22       at the 1992 general election.

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

June 19, 1992

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 463-5295

The Honorable Pat Pourchot  
Co-Chairman  
Senate Finance Committee  
Alaska State Legislature  
Juneau, AK 99801-1182

Dear Senator Pourchot:

At this morning's hearing on SB 484 and SB 485, the Senate Finance Committee inquired about the penalty if a person falsified his or her application for a "Tier II" subsistence permit.

Our criminal division advises that the overwhelming majority of violations of this nature are covered by AS 16.05.420. The penalty for such violations is included in Court Administration Rule 43.2, which is the fish and game bail forfeiture schedule. The schedule provides for a maximum bail forfeiture of \$200. Then cases are handled as citations and, in accordance with Rule 43.2, they are not handled as criminal cases.

State prosecutors rarely use AS 11.56.210, the unsworn falsification statute, for these kinds of cases and then only for the most egregious violations. Unsworn falsification is a class A misdemeanor and has a maximum penalty of one year imprisonment and a \$5,000 fine.

I have attached the relevant statutes and the Court Administration Rule for your information.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Richard I. Pegues*  
Richard I. Pegues, Director  
Administrative Services

CEC:RIP:djd

Attachments/3

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