503 HRES HB 425 - HB 563

HB
425

An Act relating to erosion control.

4-1-77

COMMITTEE REPORT

FINANCE

HOUSE

April 20 1977 Date

Mr. Speaker:

The Committee on RESOURCES has had HB 425 under consideration. A majority of the members of the Committee

/_/ recommends it do pass

/_/ recommends it do not pass

/_/ recommends it do pass with attached amendment(s)

/X/ recommends it be replaced with CS for HB 425 and that CS for HB 425 do pass

/_/ (and) recommends it be referred to the _____ committee

/_/ reports it back without recommendation

/_/ AND attaches a report of its intent

/_/ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

[illegible]
Chairman

H 60

AMENDMENT

OFFERED IN THE HOUSE: BY: House Resources

TO: _____ HOUSE BILL No. 427

SENATE BILL No. _____

PAGE: 3 LINE: 3
4

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

Lee McAnerney, Commissioner
Department of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 425 An Act relating to erosion control and HB 426 An Act making a special appropriation to the Department of Community and Regional Affairs to provide funds for the erosion control grant program; and providing for an effective date on Tuesday April 19, 1977 at 1:15 p.m. in room 118 of the Capitol Building. The Committee will also be reviewing HB 459 An Act establishing the position subsistence economist within the Department of Community and Regional Affairs. HB 459 has not been scheduled yet. We will notify you later in regards to the date, time and location of the meeting.

Pease supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Eric Lee, Director
Community & Rural Development

DATE : April 7, 1977

FROM: Sue Taylor
Field Training Officer

SUBJECT: Erosion

I talked with Jerry Raychel of the Corps of Engineers who informed me that the Corps did not have any statewide report on the risks or occurances of erosion and/or erosion control projects. The Corps, however, can respond to inquiries about communities on an individual basis.

For example, they are involved with three (3) projects at present: Eagle, Kotzebue, and Seward. Kotzebue and Seward are part of a new (federal) experimental program of low - cost shoreline erosion prevention projects. At present, they have some evidence of erosion, but there is no emergency. As low cost erosion prevention projects, the estimated total project cost in each community is $140,000, 25% of which the local community must contribute. (e. g. $30 - 35,000). In Eagle, the Corps is involved with a Section 14 Erosion project for which they have been given a (federal) ceiling of $250,000. However, their estimated project cost was $750,000.00.

Jerry said that more information about erosion projects and costs could be had from Bob Smith, one of their planners, at 752-2020.

My own involvement with Karluk indicates that erosion and erosion control projects are costly. In the early stages of the problems at Karluk, the Corps estimated $12,287 for the repair of one (1) washout in the most favorable weather condition. The Borough's consulting engineer estimated $31,500 for the repair of two washouts under adverse weather conditions. To do the most basic work in Karluk, surely a stopgap measure, the cost of the project is now $47,136.00, $12,320.00 of which is coming through our Department under an RDA Grant.

In a more recent survey of Karluk, the Borough consulting engineer, Dolland Jones, determined that $450,000 - 600,000 would be needed immediately to do the very minimum amount of work needed. Many consider this a very low estimate.

I also expect an application soon from Old Harbor for RDA funds in the amount of $12,000 - 15,000 for an erosion project. This project is "not a major one", and will simply provide gabions and/or creosoted pilings for 1200 to 1300 feet of shoreline. The $12-15,000 figure reflects what will be requested thru an RDA Grant. The total project cost will be about $25,000.

Finally, Nancy Gross has been working on an erosion project in Port Heiden. I believe her latest information from that community is that materials needed, as recommended by the Corps, alone will cost $77,000.00

In all of these figures, I believe there is no cost figured in for engineering studies or surveys. In some cases, the Corps of Engineers could provide this expertise, but in many other cases, communities would also have to have additional funds for hiring engineers. The costs reflect materials, labor, equipment and transportation.

Obviously, erosion control is necessary but costly.

ST:cm

cc: Lare'

HB
444

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

11 April 1977

James W. Brooks, Commissioner
Department of Fish and Game
Subport Building
Juneau, Alaska 99801

ATTENTION: Ed Huizer

Dear Commissioner,

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Sterling Gallagher, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner,

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Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Richard L. Burton, Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner,

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Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

H. Phillip Hubbard, Commissioner
Department of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811

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Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99811

ATTENTION: Roy Rickey

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If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Limited Entry Commission

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

19 April 1977

RE: HB 444 Confidentiality of Fishery Reports

TO: House Resources Committee Members

Please note the attached Committee Substitute. Perhaps this will clear up some of the problems that the Committee had with the bill.

Introduced: 4/7/77
Referred: Resources

IN THE HOUSE BY GARDINER

HOUSE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the confidentiality of fishery reports."

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

* Section 1. AS 16.05.815 is repealed and re-enacted to read:

Sec. 16.05.815. CONFIDENTIAL NATURE OF CERTAIN RECORDS. Reports required by regulations of the department concerning the landing of fish, shellfish, or fishery products, and annual statistical reports of buyers and processors required by regulations of the department, insofar as they are in the form of individual records, are confidential. They may be released to the Department of Revenue, the ~~Department of Public Safety~~ DIVISION OF FISH & WILDLIFE PROTECTION, and the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities. ~~They may also be released to the North Pacific Fisheries Management Council, the University of Alaska, and the Department of Commerce and Economic Development in conjunction with research and statistics projects.~~ However, the commissioner may not release a report if he determines that to do so would abuse the intent of this section, and he may limit or condition any release to insure that proper confidentiality is maintained. Confidential reports held by the department, or received from the department by the agencies and organizations mentioned in this section, may not be communicated or distributed in the form of individual records to any other agency, organization, or individual unless required by a court order.

The Department of Commerce and Economic Development may obtain records for an individual fisherman if the fisherman signs a written release of authorization.

North Pacific Fishery Management Council

CHAIRMAN
Mr. Elmer Rasmuson
P.O. Box 600
Anchorage, Alaska 99501

EXECUTIVE OFFICE
Suite 32, 333 West 4th Avenue
Post Office Mall Building
Phone: 907-274-4563
Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

April 14, 1977

The Honorable Al Osterback
Chairman, House Resources Committee
House of Representatives
Alaska State Legislature
Pouch Y, State Capitol
Juneau, AK 99811

Dear Mr. Osterback:

I asked Steve Pennoyer of the Alaska Department of Fish and Game and Keith Specking to speak for the North Pacific Council during your review of HB 444 on this date.

The requirement for the North Pacific Fishery Management Council to have access to catch reports and industry statistics is necessitated by their development of management plans for the fishery resources off Alaska. The Council is currently engaged in developing plans for the groundfish fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands, for the tanner crab fisheries and for the ocean troll salmon fishery. Management plans on the other fisheries off Alaska will be started as soon as these high priority units are well underway, probably late this fall. After the plans are completed and in effect they will be constantly monitored, revised and updated. All of this will require access to the material covered in the confidentiality section of HB 444.

There is no fiscal implication that we can identify and the section as written appears to be satisfactory for the Council's purposes. Your support in furthering this Bill will be greatly appreciated.

Sincerely,

Jim H. Branson

Jim H. Branson
Executive Director

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Gardiner	HB 444

DEPARTMENT POSITION

Favor Passage of SB 147

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Col. Fred M. Waldstad by Capt Don M Roberts	4/14/77	[signature]	4-14-77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL

Passage of the bill will assist the Department of Public Safety in carrying out its statutory responsibilities.

(4) FISCAL IMPACT: ☐ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

* Sec. 29. AS 16.05.780(a)(2) is amended to read:

(2) a majority of active local advisory committees in [FOR] that unit or subunit have recommended an opening for that year, after each has taken a vote and a majority of the members of those committees have voted in the affirmative; if no active advisory committee exists within the unit or subunit, the recommendation of a committee in any contiguous unit or subunit will be sufficient.

* Sec. 30. AS 16.05.810 is amended by adding a new subsection to read:

(b) Nothing in this section authorizes possession of fish or game when possession is prohibited by applicable law or regulation.

* Sec. 31. AS 16.05.815 is repealed and re-enacted to read:

Sec. 16.05.815. CONFIDENTIAL NATURE OF CERTAIN RECORDS. Reports required by regulations of the department concerning the landing of fish, shellfish, or fishery products, and annual statistical reports of buyers and processors required by regulations of the department, insofar as they are in the form of individual records, are confidential. They may be released to the Department of Revenue, the Department of Public Safety, and the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities. ~~They may also be released to the North Pacific Fisheries Management Council, the University of Alaska, and the Department of Commerce and Economic Development in conjunction with research and statistics projects.~~ However, the commissioner may not release a report if he determines that to do so would abuse the intent of this section, and he may limit or condition any release to insure that proper confidentiality is maintained. Confidential reports held by the department, or received from the department by the agencies and organizations mentioned in this section, may not be communicated or distributed in the form of individual records to any other agency, organization, or individual

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ASSIGNMENT DATE_____

UNASSIGNED_____

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Public Safety	Gardiner	HB 444

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DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Col Fred M Woldstad by Capt Don M Roberts	4/14/77	[signature]	4-14-77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

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(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

08-H2LH

STATE OF ALASKA

J. S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

April 13, 1977

Honorable Al Osterback, Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 12, requesting our comments on HB 444, relating to the confidentiality of fishery reports.

As this department is continually involved with fisheries research and projects, we would support this legislation which would make vital data more readily available to us.

Yours truly,

H. Phillip Hubbard
Commissioner

15

HB
432

Rural Alaska
Community Action Program, Inc.

Sincerely yours
Jim Boone
Board

January 12, 1978

The Honorable Don Young
United States House of Representatives
1210 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Young:

We noted with interest your proposal to the Legislature, presented last Monday, that a General Fund appropriation of $5 to $10 million finance a massive lobbying effort against the passage of HR 39. We believe such an effort, at this time, would be unwise.

At a time when the credibility of Alaska is at a low ebb in Congress, primarily due to the generally uninformed rhetoric of various groups and individuals who purportedly represent an "Alaskan position" on d-2 (generally) and HR 39 (specifically), a lobbying effort such as has been proposed would probably be interpreted as a waste of money (from a state which constantly tries to extract more money from the federal coffers). As well, it would constitute an admission that the State has been reduced to blind advocacy in opposition to one proposal without a responsibly-developed alternative. Also, it would be an insult to the many Alaskans who support all, or at least part of, the concepts embodied in the Sub-Committee print (of HR 39) used for mark-up this month. In short, Congressman, were the State to act favorably on the proposal, we believe the effort would be counter-productive to a final resolution of the d-2 issue on terms generally acceptable to most Alaskans.

It is our belief that there is no Alaskan consensus on d-2 (save, perhaps, a majority which takes a knee-jerk stand in opposition to a "federal lock-up" of Alaskan lands). And we would submit that the reason for this is that there has been little responsible public discussion of the issue which might have served to develop consensus among Alaskans.

Organizations such as the Alaska Federation of Natives, regional non-profit corporations in the Bush and RurAL CAP possess the interest and capability to assist in the development of consensus among their respective constituencies. We can do this, despite severly limited resources, because we have recognized the over-riding imperative of achieving federal protection of Native subsistence options in any d-2 legislation which finally emerges.

All of this is not to suggest that it is too late to build Alaskan consensus on the issue (or, at least, parts of it; i.e. resource management). Neither do we suggest that the role of the Legislature in appropriating General Fund monies and providing some leadership on the issue is entirely inappropriate. It is our belief that the Congress would be receptive (indeed, would welcome) evidence that the State is taking steps to put its house in order and to involve its citizens in the

Administration • P.O. Box 3-3908 Anchorage, Alaska 99501 • (907) 279-2441

formation of positive recommendations to be made to the Congress. What follows is a series of recommendations which, if followed, would strengthen the State's position in Congress.

1) Begin, in earnest, a series of State-funded workshops to discuss the most appropriate methods of decentralizing the decision-making authority of the Boards of Fish and Game. These workshops should be held throughout the State, adequate materials should be prepared and disseminated to the participants, a real effort should be made to notify in advance and prepare local people to participate, and costs for the workshops should be borne by the State.

(We have been involved in two meetings called by Commissioner Skoog to discuss this topic and applaud the Administration's initiative; however, the first meeting yielded only a consensus that another one was needed, while the second one quickly degenerated into a debate between those who favored decentralization and those who opposed it. Other meetings are planned, but there isn't any indication that the outcome will be any more positive. As well, in neither of the above instances did the State pay any transportation costs for participants, nor were adequate working papers made available.

2) Hold similar conferences on other issues being addressed by d-2 legislation; i.e. land conveyance to Native Corporations and the State, easement policies, the proposed Land Bank, the environmental protection of all federal (public) lands through various administrative devices, the equated economics of "preservation vs. development," the actual proposals for various designations of d-2 lands, state land selection procedures and goals, etc.

3) Increase or initiate funding to appropriate management entities which rely, at present, almost exclusively on federal funds (i.e. the Divisions of Sport Fish and Game within ADF&G, the Coastal Zone Management program, etc.), in order to demonstrate a good faith effort by the State to manage the lands and resources which are presently its responsibility.

4) Support, through adequate financing, State participation in the "interim management plan" called for by AFN President Byron Mallott last week, thereby adding credibility to the State's frequent assertion that subsistence uses are the number one priority of resource allocation decisions and that the State recognizes (and accepts) its partnership role with the federal government in these matters.

5) Recognize that the proposed public lands designations and management systems are, in fact, national concerns and their ultimate disposition is quite properly a subject of national debate and Congressional determination.

In our opinion, if any or all of the above suggestions were positively acted upon, and forthrightly implemented, the "Alaskan position" in Congress and throughout the United States would be far more palatable.

Again, I express our sincere reservations about the wisdom of the approach you have suggested, and reiterate our proposal that the State initiate a positive effort with its own citizens prior to funding a major lobbying effort in Washington, D.C.

Thank you for your attention to these remarks.

Sincerely,

Phil Smith
Executive Director

cc: Governor Jay S. Hammond
Senator Mike Gravel
Senator Ted Stevens
The Honorable Cecil Andrus, Secretary of Interior
Senator John Rader, President, Alaska State Senate
Senator Kay Poland, Chairperson, Senate Resources
Senator John Sackett, Chairperson, Senate Finance
Senator Chancy Croft, Member, Senate d-2 Steering Council
Representative Hugh Malone, President, State House of Representatives
Representative Al Osterback, Chairperson, House Resources
Representative Steve Cowper, Chairperson, d-2 Steering Council
Congressman John Sieberling, Chairperson, Subcommittee General Oversight and Alaska Lands
Congressman Morris Udall
Congressman Lloyd Meeds
Senator Henry Jackson,
Senator Lee Metcalf
Byron Mallot, President, AFN
Tundra Times

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

April 22, 1977

Representative Alvin Osterback
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback;

The Bristol Bay Borough strongly supports the following House Bills.

a. H.B. 450 establishing administrative regional offices for the Department of Health and Social Services.

b. H.B. 451 establishing administrative regional offices for the Department of Community, and Regional Affairs.

c. H.B. 452 establishing administrative regional offices for the Department of Fish & Game.

Locating regional offices in Naknek will provide a central location for these state activities and result in faster and more adequate services to residents of Bristol Bay, Alaska Peninsula and the Iliamna Lake Clark Areas.

Your support of these three Bills will be greatly appreciated.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:smc

HB
459

AGO 122826

Gut
5/4/77

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

Lee McAnerney, Commissioner
Department of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner,

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Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

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Department of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

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Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 459

Title Establishing position of subsistence economist in Department of Commerce and

Requested by Economic Development Date 4/12/77

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Development

Budget Request Unit(s) Affected Economic Enterprise

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		31.8	33.7	35.7	37.7	
200 TRAVEL		4.5	4.5	4.5	4.5	
300 CONTRACTUAL		15.0	10.0	7.0	5.0	
400 COMMODITIES		1.0	1.0	1.0	1.0	
500 EQUIPMENT		-0-	-0-	-0-	-0-	
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	
TOTAL		52.3	49.2	48.2	47.2	

FUNDING (Thousands of Dollars)

GENERAL FUND		52.3	49.2	48.2	47.2	
FEDERAL FUNDS		-0-	-0-	-0-	-0-	
OTHER (Specify)		-0-	-0-	-0-	-0-	

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This program, conducted by a Research Analyst III or possibly an economist knowledgeable on Alaska and the traditional lifestyle would:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.
2. Determine the impact of the various D-2 lands selection proposals on subsistence hunting and fishing, and
3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish & game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position would set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of D-2 lands on subsistence hunting, fishing and gathering activities.

IV. DATE 4/18/77 PREPARED BY J R Kleager

AGENCY Division of Economic Enterprise

PHONE 465-2020

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

Program Summary:

Research Analyst or Principal Economist (R-20)		$26,244
Fringe @ 25.5%		5,511
Travel		3,000
Per Diem		1,500
Contractual		15,000
310 - Communications (phone, etc.)	$1,300	
320 - Printing/advertising	2,000	
330 - Office Rent	1,400	
380 - Professional Fees (consultant)	4,300	
RSA to Fish & Game (Required Assistance)	6,000	
Commodities		1,000

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

4 May 1977

Honorable Hugh Malone, Speaker
House of Representatives
Alaska State Legislature

Re: HB 459

Subject: Letter of Intent

Dear Mr. Speaker,

In adopting HB 459, it is the intent of the Resources Committee that the subsistence economist provided for by this legislation shall:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.

2. Determine the impact of the various (d)(2) lands selection proposals on subsistence hunting and fishing, and

3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish and game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position shall set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of (d)(2) lands on subsistence hunting, fishing and gathering activities.

Sincerely,

Alvin Osterback

Rep. Al Osterback, Chairman
House Resources Committee

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 459
Title "An Act establishing the position of subsistence economist within
Requested by House Resource Date 4/11/77

II. FISCAL DETAIL
Agency Affected Department of Community & Regional Affairs
Program Category Affected Development
Budget Request Unit(s) Affected Division of Community & Rural Development

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	-0-	31.8	33.7	35.7	37.7	39.8
200 TRAVEL		4.0	4.2	4.4	4.6	4.8
300 CONTRACTUAL		2.5	2.7	2.9	3.1	3.5
400 COMMODITIES		1.0	1.1	1.1	1.2	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		39.3	41.7	44.1	46.6	49.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	39.3	41.7	44.1	46.6	49.3
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Assumptions
1. The position will be located in Anchorage
2. That inflation will occur at the rate of 6% through 1982.

B. Program Summary

Principal Economist	26,244	(R 20)
Fringe@ 25.5	5,511	
Contractual		
Office	1,260	
Phone	1,200	
Travel & Perdiem	4,000	
Commodities	1,000	

IV. DATE 4/15/77 PREPARED BY Reed R. Stoops Reed R Stoops
AGENCY Division of Community & Rural Development
PHONE 465-4708

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

April 26, 1977

Honorable Al Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 13 requesting our comments on House Bill 459 which would establish the position of Subsistence Economist within this department.

We support this bill and believe the establishment of this position would increase our ability to respond to Native issues and problems. It would also add expertise to aid in formulating basic State policy decisions.

We would appreciate the opportunity to testify on this bill when it is scheduled for committee action. A Fiscal Note has been submitted indicating a $52.3 expenditure for FY '78. If we can provide additional information, we would be pleased to respond.

Yours truly,

H. Phillip Hubbard
Commissioner

Program Summary:

Research Analyst or Principal Economist (R-20)		$26,244
Fringe @ 25.5%		5,511
Travel		3,000
Per Diem		1,500
Contractual		15,000
310 - Communications (phone, etc.)	$1,300	
320 - Printing/advertising	2,000	
330 - Office Rent	1,400	
380 - Professional Fees (consultant)	4,300	
RSA to Fish & Game (Required Assistance)	6,000	
Commodities		1,000

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 459
Title Establishing position of subsistence economist in Department of Commerce and
Requested by Economic Development Date 4/12/77

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Economic Enterprise

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		31.8	33.7	35.7	37.7	
200 TRAVEL		4.5	4.5	4.5	4.5	
300 CONTRACTUAL		15.0	10.0	7.0	5.0	
400 COMMODITIES		1.0	1.0	1.0	1.0	
500 EQUIPMENT		-0-	-0-	-0-	-0-	
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	
TOTAL		52.3	49.2	48.2	47.2	

FUNDING (Thousands of Dollars)

GENERAL FUND		52.3	49.2	48.2	47.2	
FEDERAL FUNDS		-0-	-0-	-0-	-0-	
OTHER (Specify)		-0-	-0-	-0-	-0-	

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This program, conducted by a Research Analyst III or possibly an economist knowledgeable on Alaska and the traditional lifestyle would:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.
2. Determine the impact of the various D-2 lands selection proposals on subsistence hunting and fishing, and
3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish & game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position would set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of D-2 lands on subsistence hunting, fishing and gathering activities.

IV. DATE 4/18/77 PREPARED BY J R Wiegen
AGENCY Division of Economic Enterprise
PHONE 465-2020

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

Alaska State Legislature

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

4 MAY 1977

AGENDA

Call meeting to Order.

Bills Under Consideration:

HB 457 Position of Subsistence Economists Dept. of Fish and Game

HB 458 Position of Subsistence Economists Dept. of Community and Regional Affairs

HB 459 Position of Subsistence Economists Dept. of Commerce and Economic Development

HB 506 Subsistence Hunting

Discussion, Questions.

Ajournment.

HB
477

CS

out

5/2/77

AGO 122827

4-15-77

COMMITTEE REPORT

HOUSE

_____ Date

Mr. Speaker:

The Committee on _____ has had _____ under consideration. A majority of the members of the Committee

/_/ recommends it do pass

/_/ recommends it do not pass

/_/ recommends it do pass with attached amendment(s)

/_/ recommends it be replaced with CS for _____ and that CS for _____ do pass

/_/ (and) recommends it be referred to the _____ committee

/_/ reports it back without recommendation

/_/ AND attaches a report of its intent

/_/ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

26 April 1977

Bob LeResche, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

ATTENTION: Pat Conheady

Dear Commissioner,

The House Resources Committee will be reviewing HB 477 An Act relating to the sale of state land on Thursday 28 April 1977 at 1:15 p.m. in room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

05-E1LH

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER
POUCH F-ALASKA OFFICE BUILDING
JUNEAU 99811

April 22, 1977

Honorable Alvin Osterback
Chairman, House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

During the last regularly scheduled meeting of the State Board of Education on March 24 & 25, 1977, the following resolution was passed:

WHEREAS, the State Board of Education was only last year given authority to participate in a meaningful way in the administration of school trust lands, and

WHEREAS, the Board is of the belief that all categories of state trust lands are in need of comprehensive policy review and is moving in that direction in cooperation with the Division of Lands and others, and

WHEREAS, various bills concerning state lands have been introduced in the present legislature,

BE IT RESOLVED, that the State Board of Education requests the legislature to withhold action on these bills until the Second Session of the Legislature in order to provide time for a sufficient analysis and more public discussion.

Sincerely,

Marshall L. Lind
Commissioner

MLL:mv

cc: House Resources Committee Members

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

18 April 1977

Theodore G. Smith, Director
Division of Land & Water Management
323 East 4th
Anchorage, Alaska 99501

Dear Mr. Smith,

The House Resources Committee will be reviewing HB 359 Homestead Grants to Alaskan Citizens on Thursday April 21, 1977 at 1:15 p.m. in room 118 of the Capitol Building. Also HB 477 Sale of State Land will be reviewed by the Committee. HB 477 has not been scheduled. We will inform you of the date, time and location.

Please supply us with position papers or material you have on these bills by the time of the meetings. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meetings.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meetings.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Pat Conheady

AO:ts

Introduced: 4/15/77
Referred: Resources

BY HAYES, AKERS, BENNETT, CARPENTER, DANKWORTH, ELIASON, FREEMAN, GRUENING, KELLY, LETHIN, MCKINNON, MALONE, MILES, PHILLIPS, RHODE, SCHAEFFER AND SWANSON

IN THE HOUSE

HOUSE BILL NO. 477

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the sale of state land; and providing for an effective date."

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

THIS SECTION APPLIES TO OIL LEASES

* Section 1. AS 38.05.035(a)(9)(A) and (B) are amended to read:

(A) the name of the person nominating or applying for the sale, lease, or other disposal of lands by lottery or competitive bidding;

(B) before the announced time of opening, the names of the proposed purchasers or bidders and the amounts of the bids;

* Sec. [2] 1 AS 38.05.035(b) [~~(2)~~] and (4) [are] 15 amended to read:

WOULD LIMIT USE THE METHOD FOR PREFERENCE RIGHTS

(2) grant preference rights for the lease or purchase of state land without competitive bid or lottery in order to correct the past or future errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only with the express approval of the commissioner;

(4) dispose of lands by lottery [or competitive bid] for less than their appraised value when, in his judgment, past scarcity of land in any particular area has resulted in unrealistic land values;

* Sec. [3] 2 AS 38.05.055 is amended to read:

Sec. 38.05.055 SALE PROCEDURES. (a) Except as provided in sec. 315(d) of this chapter and at the discretion of the director, the sale

shall be made by lottery or at public auction to the highest qualified bidder as determined by the director. If a lottery is used, the land shall be sold at its fair market value. EXCEPT AS PROVIDED IN AS. 38.05.035(b)(4) An aggrieved potential purchaser or bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the purchaser [SUCCESSFUL BIDDER] shall deposit an amount equal to NOT LESS THAN five per cent [ONE-TENTH] of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price of the land [BID,] and the terms of sale, which receipt shall be acknowledged in writing by the purchaser [BIDDER]. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state.

(b) To qualify for participation in a sale of land by lottery under (a) of this section, a potential purchaser shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that he has been a resident of the state for not less than three years immediately preceding the date his application was submitted;

[(3) be the only member of his household to apply for the purchase of land by lottery.] THIS DELETION IS SUGGESTED DUE TO EXPENSE IN ADL DETERMINING THIS. ALSO PARAGRAPH NOT PERTINENT.

* Sec. 4. AS 38.05.065 is amended to read:

Sec. 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period of not more than 20 years, to be set for each sale by the director. Installment payments plus interest must be set on the level-payment basis. The interest rate to be charged on installment payments

is the prevailing rate on similar land transactions at the time the contract is signed, as determined by the director, but in no case may it be below five per cent per year or above the current usury rate as set by AS 45.45.010(b) and (d) [IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE, WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR]. The director, with the consent of the commissioner, may also impose conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law [LEGAL ACTION, INCLUDING A FORECLOSURE ACTION IN ACCORDANCE WITH APPLICABLE STATE LAW].

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

ADL (DON HANSON) POSITION IS that the 5% ~~[illegible]~~ instead of 10% TERMS for down payment, etc should properly be addressed in HB 383 and 159 — I don't agree since they may never reach Governor's desk in that form.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS / 323 E. 4TH AVENUE – ANCHORAGE 99501

April 28, 1977

Representative Al Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

I am pleased to be able to support the concept embodied in H.B. 477. The auction process of land sales is in many cases a significant contributor to inflated land prices. I do not advocate free land since in my view this is a benefit to a few at the expense of all the people of the state, but neither do I think the state's best interests are always served by accepting more than the appraised market value of land. The lottery system proposed by H.B. 477 would provide a needed alternative to public auction. We do have a number of amendments to the bill which I believe will preserve the concept while improving the effectiveness of the bill.

1. There is no logical reason to keep confidential the name of anyone proposing a disposal by lottery or a purchaser by lottery, therefore:

   Page 1, Lines 9-14: Delete all material.

2. A preference right is an individual adjudication, a procedure to correct an administrative error in a specific case. There is no opportunity for multiple entitlements nor a lottery to determine the successful applicant, therefore:

   Page 1, Line 15: Delete "(2) and"; Change "are" to "is."

3. The provision for competitive bid erases any opportunity for relief from artificially high prices otherwise provided by A.S. 38.05.035 (b) (4). In the one case where such a reduction was made, the bidding process pushed prices well above the original appraisal, therefore:

   Page 1, Line 24: Delete "or competitive bid."

4. The provision for such reduction should be available where appropriate, therefore:

   Page 2, Line 3: Following "value" add "except as provided in A.S. 38.05.035 (b) (4)."

5. The provision for a 20 year sale period is addressed in other legislation, specifically H.B. 383 and H.C.S.C.S.S.B. 159. In order to avoid confusion with these bills and keep the focus of H.B. 477 specifically on the lottery issue:

   ~~Page 2, Line 8: Delete proposed new language.~~
   Page 2, Lines 22-23: Delete all material. 22-23
   ~~Page 3, Lines 1-14: Delete all material.~~

6. There would be a substantial number of problems with defining "household" and with policing the provision in A.S. 38.05.055 (b) (3). Since the disposal would be at fair market value, there seems no good reason to impose the restriction and incur those problems. I recommend:

   Page 2, Lines 22 & 23: Delete all material.

Please contact me if I can be of further assistance.

Yours truly,

Ted

Theodore G. Smith, Director
Land and Water Management

HB
506

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

April 26, 1977

Honorable Al Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 13 requesting our comments on House Bill 459 which would establish the position of Subsistence Economist within this department.

We support this bill and believe the establishment of this position would increase our ability to respond to Native issues and problems. It would also add expertise to aid in formulating basic State policy decisions.

We would appreciate the opportunity to testify on this bill when it is scheduled for committee action. A Fiscal Note has been submitted indicating a $52.3 expenditure for FY '78. If we can provide additional information, we would be pleased to respond.

Yours truly,

H. Phillip Hubbard
Commissioner

Alaska State Legislature

House

JUNEAU ALASKA May 4, 1977

Memo to: Sally

From: Ruth

George Utermohle, of Legislative Affairs, Research, has looked over HB 506, at our request, to find any possible problem areas in the bill.

Briefly, his comments are:

Most of the bill is the same as previous law. Exceptions are:
page 1, Line 10, after "meeting" through line 13, after "sooner", is new.

page 2, Line 11, after "requested," through line 29, "made", is new.

page 3, Line 4 through line 16 is new.

According to Utermohle, the bill is a good way to handle some of the subsistence law problems.

Suggested changes in the new sections are:
page 2, Line 15, add "and report" after "investigation"

page 2, Line 19 through 21--this may not be possible since the information may not be available except in areas where harvest tickets are necessary. Even then the game involved may not have adequate records.

Page 3, Line 13, "biomass"-----this is a scientific term and would include all plant life, animal life, and any other parts of an ecosystem. The term should probably be replaced with another phrase, such as "biomass of the species under consideration" or something similar.

Suggested changes in existing language, to tie up currently existing problem areas:
Page 1, Line 10. include after "or"---"at a special meeting held after"----

Page 1, Line 16 and 17 (1)
There are currently problems in coordination between the Department of Fish and Game and the Department of Public Safety regarding regulations--the enforcement division doesn't see the regs until after they're adopted, and can't forstall problems until after they're created.

Suggested change is to add after "e idence:"---"or recommendation of Division of Fish and Wildlife Protection"

Page 3, Line 24 and 25, add similar wording as above.

Regarding the term "subsistence hunting" it is stressed that everyone is now a subsistence hunter, except trophy hunters. Where subsistence hunting is contrasted with recreational hunting, there is no definition of recreational hunting--so the phrase using the contrast actually means nothing.

Another problem area could be that departmental staff are not listed among the ones able to call a meeting. Also, the bill doesn't clarify what "area of the public" the 100 or 25 people are from, as mentioned on page 1 Line 19 through 22.

Other than that, Utermohle says it is a "good" bill. Possibly either a sponsor substitute or a committee substitute would be easier than amendments.

Thanks.

Hope this helped,

RA

TO: The Honorable Rep. Osterbach, Chairman, and members of the House Resources Committee

FROM: Peggy Berck, Alaska Legal Services Corporation

RE: H.B. 506

DATED: May 4, 1977

1. Introduction The clients of Alaska Legal Services corporation are strongly in support of H.B. 506. Although I shall be unable to attend the Resources Committee hearing scheduled for May 5, 1977, in order to present oral testimony on this bill, I have drafted the following written comments. My absence should not be construed as a reflection of any disinterest on behalf of my clients with respect to this bill. I shall be in Chicago on that date in order to present testimony before the U.S. House Subcommittee relative to the impact of D-2 legislation now under consideration upon the subsistence activities of rural Alaskans. Should there be additional opportunity for testimony on this bill, I shall be available any time after May 8, 1977.

2. Summary H.B. 506 would essentially accomplish three things. First, the Bill would permit the declaration of a subsistence hunting unit within 120 days of either; the receipt of a petition, or, a majority vote of the active local advisory committees, calling for the establishment of a subsistence area.

Second, the Bill would mandate the Department of Fish and Game to provide the petitioners or the advisory committee with information they can use to determine for themselves whether a subsistence zone is needed. At the hearing, the petitioners or advisory committees would have the opportunity to present this information in the posture most suited to their position and to dispute the informaiton that the Board would most likely base its determination upon.

Third, the Bill sets forth certain standards upon which the Board must make its determination. These standards would preclude the Board from making decisions in an arbitrary or capricious manner and, furthermore, would provide some means to challenge a decision if not based on those designated standards.

3. Why this Legislaton is Needed Current law provides that the Board of Game may delcare a subsistence zone only once

a year at their annual meeting. H.B. 506 would allow the proponents to raise the issue at any time. This is necessary since the issue may become critical at a time other than that set for the annual meeting.

4. The subsections (Section 1 (c)(2) - (4) requiring the Department to investigate and submit a factual report to the proponents provides the proponents with an opportunity to presnet their case upon biological evidence rather than merely upon their personal observations. Thus the amendments require the Board to provide information that currently they do not ordinarily have to provide.

This requirement is needed in order to allow the proponents more input into the determination, by giving them the information necessary to present their case and to question the Board of Game's determination.

This information is to be given to the proponents at least 45 days prior to the determination by the Board of Game as the time for the public hearing.

Additionally, Section 1(c) (1) would require that one department game biologist responsible for that particular unit and two members of theBoard of Game attend the public heairng. This is needed so that responsible and informed persons might be able to answer the questions of the people living in the area to be affected. Furthermore, it is essential that the Board of Game have personal, first hand knowledge of what is happening in a particular area requesting subsistence regulations.

5. The subsections (Section 4, subsections (f) (1) - (4)) setting forth the standards upon which the Board must make its determinations are necessary in order to prevent an improper delegation of the legislative function which licenses the fact finder to create its own standards in each case. Without reasonably clear standards there exists an invitation to arbitrary and capricious determination.

6. The Board of Game is reluctant to use this statute for various reasons; such as, that they do not want to establish any precedents and that they can accomplish the same result without creating subsistence zones. This attitude does not follow the intent of the legislature which is to create areas of hunting which are to be used primarily by the subsistence user. The effect of the H.B. 506 would require the Board to take a serious look at each proposal for a subsistence zone.

cc: Rep. Nels Anderson

HB 506 An Act relating to subsistence hunting.

Nels Anderson, the sponsor testified in favor of the bill

Introduced: 4/26/77
Referred: Resources

IN THE HOUSE BY ANDERSON

HOUSE BILL NO. 506

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to subsistence hunting."

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

* Section 1. AS 16.05.257 is repealed and re-enacted to read:

Sec. 16.05.257. SUBSISTENCE HUNTING REGULATIONS. (a) The Board of Game, at its regularly scheduled annual meeting, at a special meeting, or within 120 days ~~from~~ after the vote conducted under (2) of this subsection, or within 120 days ~~from~~ after the ~~date~~ receipt of a petition ~~is~~ submitted under (3) or (4) of this subsection, whichever comes sooner, may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence; OR RECOMMENDATION OF DN. OF FISH & WILDLIFE PROTECTION

(2) the majority vote of the active local advisory committees for that game management unit or subunit;

(3) the written petition of not less than 100 interested residents of that game management unit or subunit; or

(4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit.

(b) The regulations may include but are not limited to the following:

(1) the establishment of subsistence hunting areas;

(2) the regulation of transportation methods and means to protect subsistence hunting within subsistence hunting areas, including

the prohibition or limitation of pack animals and mechanized vehicles and aircraft, other than watercraft or wheeled vehicles operating on a road maintained by public funds;

(3) the establishment of open and closed seasons and areas to protect subsistence hunting;

(4) the limitation of hunting to only one sex of the animal.

(c) At least 45 days before the determination made in (a) and (b) of this section the department shall,

(1) after reasonable notice, hold public hearings, at least one of which must be at or in close proximity to the area for which a subsistence area is requested, with at least one department game biologist responsible for the unit or subunit in which the subsistence area is located and two members of the Board of Game in attendance at these hearings;

(2) make an adequate biological investigation, report including but not limited to the carrying capacity of the species under consideration, the concentration of other species, and competition among species which are found in the unit or subunit under consideration;

(3) make an adequate report of the numbers of the species that are being harvested and who is harvesting them, including but not limited to residents, nonresidents, subsistence hunters and recreational hunters;

(4) make the reports submitted under (2) - (3) of this subsection available to the advisory committees voting under (a)(2) of this section or to the persons who petitioned under (a)(3) or (4) of this section.

(d) Comments to the reports submitted under (c)(2) - (3) of this section may be submitted to the Board of Game at least 10 days before a determination to adopt regulations under (a) and (b) of this section is made.

(e) A petition submitted under (a)(3) or (4) of this section shall contain a complete description of the area requested as a subsistence area, a specification of the species within the area considered necessary for subsistence use, and a statement as to why a subsistence area is being requested, including but not limited to the availability of the species for subsistence harvest and the competition between subsistence and nonsubsistence users.

(f) Subject to (g) of this section, the determination by the Board of Game to provide for subsistence hunting shall be based on the following:

(1) the past and present dependence of the area for subsistence use of the species;

(2) the extent of the biomass in the area;

(3) the population trends of the species in the area; and

(4) whether the population is able to support nonsubsistence harvest.

(g) No subsistence area may be created under this section if the Board of Game determines that biological evidence indicates that the creation of such an area is likely to adversely affect a resource in that it would fall below the level of sustained yield determined to be adequate.

(h) The Board of Game at any time may review and change the boundaries of a subsistence area upon

(1) the recommendation of the department, based on biological evidence; recommendations of the Div of Fish & Wildlife Protection

(2) the written petition of not less than 25 interested residents of that area; or

(3) the majority vote of the active local advisory committees for that area.

(i) The department shall submit a report to the legislature during the first 10 days of each (REGULAR) legislative session beginning after January 1, 1977. The report shall include, but is not limited to, a listing of the specific subsistence areas established or modified during the preceding year and the species subject to subsistence use within those areas.

(j) In this section

(1) "subsistence hunting" means the taking of game animals by a state resident for food or clothing for personal or immediate family use;

(2) "subsistence hunting area" means an area designated by the board as primarily important for subsistence use and in which it is unlikely that subsistence needs will be met if recreational hunting, including hunting for trophy purposes, is permitted or if certain methods and means are continued.

[DEFINE RECREATIONAL HUNTING AS OPPOSED TO SUBSISTENCE HUNTING]

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

Eliason HB 506

FOURTH JUDICIAL DISTRICT

TANANA VALLEY SPORTSMEN'S ASSOCIATION, INC., and MARK A. WARTES, Plaintiffs, vs. THE STATE OF ALASKA, Defendant.	

OPINION

No. 76-1958

The declining population of the Western Arctic caribou herd brought about a meeting of the Alaska Board of Game in Fairbanks commencing September 20, 1976. The testimony documented the decrease of caribou, and game biologist Jim Davis testified, without contradiction, that, "Biologically, and considering the caribou population exclusively, it would be desirable to have zero human utilization." Minutes, Public Hearing, p. 13. Presumably this means that it would be best for the caribou herd if no caribou were killed by people.

Apparently the Game Board showed more concern with what it considered to be the needs of the people of the western Arctic than with the declining caribou population, since the final decision was to allow the taking of 3,000 bulls. Only hunters issued permits are allowed to take caribou. The 3,000 permits are to be distributed on the basis of a quota system with a set number to be distributed by department personnel in each village in the western Arctic.

September 1976 read as follows:

> "(17) the taking of caribou in Units 23, 24, 26A and 26B shall be by permit only and such permits shall be issued by department agents in designated villages. Quotas of permits for each village and persons living outside of villages shall be based on the recommendation of village councils and corporations on the basis of population, need, availability of other food sources
>
> and employment, and other facts which may assist in meeting the minimum sustenance needs."

It is clear that the intent of the original emergency regulation was to restrict the issuing of permits to members of native corporations and that the only reason for issuing any permits was the Board's finding that the people of the regions in question need caribou. No facts are set forth to show why the Game Board decided the caribou were needed to maintain minimum sustenance needs.

A permanent regulation became effective on December 29, 1976. The permanent regulation set forth the number of permits to be issued by department personnel from each village. As the State points out in its brief at page 2:

> " . . . the change in wording from the emergency regulation to the permanent regulation had nothing to do with the criteria by which permits were to be issued to individual applicants. A close reading shows that the deleted phrases indicated the method by which the total number of permits were to be allocated to issuing agents in different parts of the affected areas. The deletion was made because the next section of the regulations actually made this allocation, so the deleted phrases were totally unnecessary. The specific allocations were made by the Board using the criteria specified, namely minimum sustenance needs, thus underlining the Board's directive to the Department that need be a criteria for issuance of individual permits." State's Opposition Memorandum, p. 2.

made in permit issuance are between sports hunters and true sustenance or 'need' hunters". State's Opposition Memorandum, p. 3.

The State justifies this differentiation between "sports" hunters and "need" hunters as follows:

> " . . . this distinction is no more invalid than is a graduated income tax or Aid to Dependent Children -- all cases in which public resources are allocated in such a manner as to avoid undue hardship on those truly in need. Thus 'need' is a perfectly proper and legal basis on which to allocate preferences among users of this resource." State's Opposition Memorandum, p. 3, 4.

The crux of the controversy is clear: Does the Game Board have the authority to allocate the resource, i.e., caribou, on the basis of the "needs" of some of the people to the exclusion of the rest at a time when any "human exploitation" of the caribou is unwise from a game management standpoint?

It is clear to the Court that the actions of the Board violate the following provisions of the Constitution of the State of Alaska:

> "The legislature shall provide for the utilization, development and conservation of all natural resources belonging to the State . . . for the maximum benefit of its people." Alaska Constitution, Article VIII, §2.

> "Whenever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Alaska Constitution, Article VIII, §3.

> "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." Alaska Constitution, Article VIII, §4.

"Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." Alaska Constitution, Article VIII, §17.

Based upon the testimony of Jim Davis and the recommendation of the Department staff, no caribou should be killed by people. Allowing the harvesting of 3,000 bulls because of an alleged need is certainly not conserving caribou for the maximum benefit of all the people of Alaska. No convincing argument can be made that the animals are being reserved to the people for common use or that they are being utilized on the sustained yield principle. It also seems clear that the designation of permits for hunting caribou to those claiming to need them is regulating the resource unequally.

There is no question that the Game Board has the authority to limit the taking of fish and game for the purpose of preserving the resource. This does not mean that the Board has the authority to distribute the resource to a certain designated category of persons (i.e., "the needy") while specifically ignoring uncontradicted testimony that no caribou should be killed by people.

The State argues that AS 16.05.257 allows the Game Board to designate who may take certain animals on the basis of need. This statute was adopted in 1975 and amended in 1976. It allows the Board of Game to adopt regulations providing for subsistence hunting in a game management unit. AS 16.05.257(h)(1) defines "subsistence hunting" as the taking of game animals by a state resident for food or clothing for personal or immediate family use. There is no qualification that the "subsistence hunter" "need" the game animal.

AS 16.05.257 cannot be read to allow the Game Board to establish a subsistence hunting game management unit allowing the taking of animals from a depleted herd when the uncontradicted biological evidence militates against further depletion.

Additionally, even if the Game Board had the authority to designate who could hunt or how many permits could issue on the basis of need, proper guidelines and regulations would have to be established to determine need. The Game Board did not publish or adopt any guidelines or regulations telling why 3,000 permits were issued or explaining reasons for the allotment of a certain number of permits to a certain village or town area.

In summary, the Court finds that the Board of Game has violated the applicable Constitutional requirements set forth herein. It cannot justify its actions by relying on AS 16.05.257, and it has failed to adopt or publish standards and guidelines for the allotment of a certain number of permits to a certain area.

Plaintiff's Motion for Summary Judgment is GRANTED. Defendant is restrained from enforcing that emergency regulation pertaining to the taking of caribou as adopted in Spetember of 1976 and amended in December of 1976.

An Order will enter accordingly.

DATED at Fairbanks, Alaska, this 6 day of April, 1977.

James R. Blair

JAMES R. BLAIR
Superior Court Judge

HB
563

AGD 122829

Hold
until we
call Northwest
Put 2/9/98

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 563	2/3 & 2/6/78	Morris Thompson, Ak. Northwest Pipeline Co., Anchorage	2/9
	2/3 & 2/6	Rep. Swanson	2/9
	2/3 & 2/6	Commissioner, Dept. of Natural Resources (Fred Boness, Pat Conhead)	2/9
	2/3 & 2/6	Keith Specking	2/9
	2/3 & 2/6	Geoff Haynes	2/9

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HB 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1/31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
HB 652	phone 1/27	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~1/2~~ 1/31
✓HB 563	phone 1/27 + 2/1	Rep.Swanson, Pete Jeans, AK Pipeline Surveillance Env.Conservation, Nat. Res. Oil & Gas P. Conheady	2/2 Comm
CSHB 573	phone 1/27	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res.(P.Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
all B above	memo 1/27	Keith Specking	1/31 // 2/2
HB			

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
✓HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking; Commerce (Pete Jeans)	1-19-78
✓ HB 563	1-19-78		NOT SCHEDULED
HB 566	1-19-78	fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conheady)	NOT SCHEDULED
HB 581	1-19-78	fish + Game (Morrison), Geoff Haynes; K. Specking; Entry Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	F+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB 624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB 625	1-19-78	F. + G. (Morrison); Natural Res. (Conheady); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB 638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conheady)	" "
HB 650	1-19-78	Commerce (Jeans); Natural Resources (Conheady); Steering Council; Sponsors;	" " Haynes; Specking
HB 651	1-19-78	Same as HB 650	" "
HB 652	1-19-78	Same as HB650	" "

13 (B)

Testimony

of

Morris Thompson

Vice President

Northwest Alaskan Pipeline Company

Before

House Resource Committee

On House Bill 563

February 9, 1978

February 9

Mr. Chairman, members of the Committee, I am Morris Thompson, Vice President of the Northwest Alaskan Pipeline Company, and appreciate the opportunity to appear before you today. We have examined House Bill 563, together with the amendments proposed by Speaker Malone.

Northwest Alaskan supports the principle that the communities through which the pipeline passes should have access to the gas subject to the following conditions: (1) The community has acquired rights to a gas supply, (2) The community can be economically served, and (3) The parties involved have received appropriate authority. We feel that it is commendable that the State of Alaska is endeavoring to provide natural gas for the communities and the boroughs through which the pipeline will pass and expect that a likely source for the gas is a portion of the State's Royalty Gas.

We believe that the United States Congress has already adequately provided for such use of natural gas in Alaska. Section 13(b) of the Alaska Natural Gas Transportation Act of 1976 provides as follows:

> "(b) The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission (now the Federal Energy Regulatory Commission, or FERC) shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation."

In accordance with this provision and the Natural Gas Act, as amended, we plan to include connections for delivery of the State's gas in the list of facilities presented to the Federal Energy

Regulatory Commission (FERC) for inclusion in the final Certificate of Public Convenience and Necessity. It is our intention to discuss the location of the connections with the state prior to submitting our application. We will also propose the method for recovering the costs of the transportation service, which method also will have to be approved by the FERC.

In essence, what we are saying is that we are planning to work with the State to provide connections within Alaska. For the foregoing reasons, we believe it is unnecessary to amend the State's Right-Of-Way Leasing Act, as it is now being proposed. We would be pleased to assist the State of Alaska in its planning to optimize the uses of its gas.

This concludes our formal statement. We have some technical comments the Committee may want to consider.

We will be happy to answer any questions you may have. Thank you.

Technical Comments Offered By
Northwest Alaskan Pipeline Company
on H.B. 563

We offer the following comments on the substantive provisions of the proposed Bill and Speaker Malone's proposed amendments:

It is unclear to us, from reading line 14 to line 16 of the Bill, exactly what is being proposed. Is it the intent of this Bill to provide a means of extracting natural gas from the pipeline for distribution by the boroughs through which the pipeline will pass, or is the intent to extract the State's entire royalty share, plus whatever other gas which may be purchased for use or processing in the State, in each borough that presently or may in the future meet the requirements set forth in the Bill to qualify for such extraction facilities? In either case, it seems clear that there is no need to provide facilities capable of extracting an amount <u>at least equal to the State's entire royalty share in each</u> borough which qualifies for such facilities. We believe this definitely needs clarification.

We believe that the word "process" in line 16 should be changed to "deliver".

7

A motion to adopt C Sor HB563 as amended by ~~Amd~~ Speaker Malone ~~Amd~~ Miller

~~Amd Jones~~

2 No objection So ordered

Motion to move out C/S HB 563 with leg. rec

Introduced: 1/30/78
Referred: Resources and Finance

IN THE HOUSE BY COWPER

HOUSE BILL NO. 704

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making an appropriation to the Department of Natural Resources, division of land and water management; and providing for an effective date."

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

* Section 1. The sum of $1,200,000 is appropriated from the general fund to the Department of Natural Resources, division of land and water management, for the purpose of reducing the backlog of land and water applications.

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsors: Swanson, Bennett, Bradley, et al

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 563

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the location of connections and interchange facilities in certain pipelines; and providing for an effective date."

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

* Section 1. AS 38.35.120(a)(6) is repealed and re-enacted to read:

(6) notwithstanding any other provision, it shall

(A) as to any gas pipeline subject to the provisions of this section the construction of which commences after the effective date of this Act, provide one connection with appropriate valves and appurtenances and necessary metering devices and accessories required to ~~extract~~ deliver an amount at least equal to any state royalty share of the natural gas stream, [at the expense of the company,] within ~~any~~ a home rule or general law borough in which the pipeline is located; the connection shall be located within the borough at a place designated by the commissioner of the Department of Environmental Conservation after consultation with officials of the borough government; and

(B) provide connections and interchange facilities at state expense at such other places the state considers necessary;

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

Proposed amendments

for CS HB 563

by MALONE

LISTED IN ORDER OF IMPORTANCE.

AM #1 { LINES 18, 19, 20
delete:
LINE 18 - delete everything after "LOCATED"
LINE 19 - delete entire line 20 delete semicolon and all language before semi colon
— Would allow Kenai Boro to take advantage of act

AM 2 { LINE 17 - delete "general law"
allows all other boroughs (North Slope & Anchorage, Mat-Su, for example) to also benefit by act

(CONTINUED ON reverse)

Am #3 LINE 16 - delete the words "process at least one-eighth" and insert in its place:

"extract an amount at least equal to any state royalty share"

— takes care of problem with word <u>process</u>
— also allows the state to take out more than 1/8 if the royalty share is greater for some future field.

Am #4 LINE 21 & 22 - delete on LINE 21 "borough" insert the word "state"

on LINE 22 - delete the words "Dept of Envir. Cons." insert "borough"

argument — since we are talking about royalty gas, which belongs to all the people in the state, maybe the state ought to decide where the tap goes — borough assemblys would have a difficult problem taking all state interests into account.