

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3596 HRES SB 194 - SB 269

472

<u>Item</u>	<u>Points</u>
In-line disinfection	10
Gas chlorination	5
Hypochlorite chlorination	5
Iodine	5
Ultraviolet light	5
Valves	
Remote sensory	10
Automatic	8
Manual	4
Heat exchangers	10
Percentage of customers with meters	
1- 25%	4
25- 50%	6
50- 75%	8
75-100%	10
Pressure zones	
2-3	10
More than 3	15
Utilidor (walk through)	10

<sup>a</sup>Limit 10 points each.

(f) To classify wastewater collection systems under (a) of this section, the department will use the following point system:

<u>Size<sup>a</sup></u>	<u>Item</u>	<u>Points</u>
	Maximum population served, peak day	1 point per 10,000 or part
	Miles of sewer line	
	0-2	2
	2-10	6
	10-100	15
	100 and over	25
	Utilidor (walk through)	16
	Standby generators at lift stations	6
	Lift station types (Choose one most used in system)	
	Wet well with pump above well	10
	Wet well with submersible pumps	14
	Wet well/dry well	16
	Pneumatic ejectors	16

## Number of lift stations

0-5	3
5-15	5
15-35	8
35 and over	10

<sup>a</sup>Limit 10 points each.

(Eff. 8/21/78, Register 67; am 8/24/85, Register 95)

Authority: AS 46.30.010  
AS 46.30.080  
AS 46.30.090

18 AAC 74.130. TRAINING. Repealed 8/24/85.

18 AAC 74.140. WATER AND WASTEWATER WORKS ADVISORY BOARD. (a) The board will

(1) advise and assist the department as the department certifies operators and classifies water and wastewater systems;

(2) review qualifications of applicants for examination and certification in cooperation with the department or at the applicant's request;

(3) advise the department as the department prepares and gives examinations;

(4) make recommendations to the department as the department issues, cancels, invalidates, or revokes certificates;

(5) assist the department in determining the number of certified operators needed for proper system operation;

(6) make recommendations to the legislature and the governor for legislation concerning operation and maintenance of public water supply and wastewater systems;

(7) assist and advise the department as the department develops and administers a training program; and

(8) give other assistance as requested by the department.  
(Eff. 8/21/78, Register 67; am 8/25/85, Register 95)

Authority: AS 46.30.020  
AS 46.30.030  
AS 46.30.060

18 AAC 74.150. COMPOSITION OF THE WATER AND WASTEWATER WORKS ADVISORY BOARD. Deleted 8/24/85.

Editors Note: Under AS 44.62.060(b) and 44.62.125(b), 18 AAC 74.150 was deleted by the regulations attorney / / because it lacked statutory authority.

18 AAC 74.160. APPEALS. A person aggrieved by a department action taken under this chapter may ask the board to hear the grievance and make a recommendation to the department. Use of this procedure does not affect any right the aggrieved person may have under the Administrative Procedure Act (AS 44.62).  
(Eff. 8/21/78, Register 67; am 8/24/85, Register 95)

Authority: AS 46.30.080

Chapter 74 is amended to include:

18 AAC 74.170. FEES. (a) An initial application for examination will be accepted for processing only when accompanied by an application fee of ten dollars.

(b) An application for re-examination will be accepted for processing only when accompanied by an application fee of ten dollars.

(c) A qualified applicant will be scheduled for an examination only upon receipt of a \$15 examination fee for each examination to be taken.

(d) A certificate shall be renewed upon receipt of a \$30 renewal fee and proof of compliance with 18 AAC 74.070.

(e) A temporary certificate shall be issued upon receipt of a \$10 application fee, a \$15 certificate fee and compliance with 18 AAC 74.110.

(f) An examination fee will be forfeited for failure to take an examination, unless the department is notified, in writing, a minimum of two weeks before the examination date. The fee can then be applied to the next examination cycle without reapplication.

(g) For all department sponsored short courses, the following fee schedule shall apply.

1-day course	- \$ 75
2-day course	100
3-day course	150
4-day course	175
5-day course	200

Short courses shall not be presented with less than 10 students in attendance.

(h) All department sponsored correspondence courses providing CEU credit shall have a fee of \$10 per CEU.

(i) A reciprocal certificate may be issued upon receipt of a \$10 application fee and a \$15 certificate fee and compliance with 18 AAC 74.050.

Authority: AS 46.30.030  
46.30.080

18 AAC 74.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "applicant" means a person seeking a certificate under this chapter;

(2) "approved" means approved by the department;

(3) "board" means the Water and Wastewater Works Advisory Board created by AS 46.30.020;

(4) "certificate" means a certificate of competency, issued to an operator by the department, stating that the operator has met the requirements for the specified level of the certification program;

(5) "department" means the Department of Environmental Conservation;

(6) "on-site" means to be present at a system for an amount of time and at intervals acceptable to the department, based upon the complexity of the treatment process, or means to be on-call within two hours travel time of

the classification of the system and who is designated to assume the operator's duties;

(7) "operating experience" means the time spent at a system in satisfactory performance of operation duties;

(8) "operator" means a person engaged in the on-site operation of a water supply or wastewater system; "operator" does not ordinarily mean an official, such as the city engineer or public works superintendent, exercising only general administrative supervision;

(9) "operator in training" means a person receiving on-the-job training under the supervision of a certified operator or through an organized training program, who desires to obtain a certificate and who is, or can show probable employment as, an operator of a water or wastewater system;

(10) "responsible charge" means the on-site active supervision of system operations;

(11) "service connection" means a pipe, with all its parts, that connects a water or sewer main with building plumbing;

(12) "system" means a water supply system or a wastewater system;

(13) "wastewater collection system" means pipelines or conduits, pumping stations and force mains, and all other related constructions, devices, and appliances used to conduct wastewater to a wastewater treatment system;

(14) "wastewater system" means the system of pipes, structures, equipment, and processes required to collect, carry away, and treat domestic or industrial wastewater and dispose of the effluent;

(15) "wastewater treatment system" means devices, structures, and equipment used to treat, neutralize, stabilize, or dispose of wastewater and residuals;

(16) "water distribution system" means post treatment storage facilities, conduits, mains, lines, pumping stations, or other devices used to carry water to the consumer, and includes a groundwater supply treated only with chlorine;

(17) "water supply system" means any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which water is available for human consumption; "water supply system" includes systems providing water to more than one residence, or to a factory, office building, restaurant, school, or similar facility, but does not include a system serving only a single-family residence; and

(18) "water treatment system" means devices, structures, and equipment used to condition, purify, or refine water for human consumption, and does not include a groundwater supply treated only with chlorine. (Eff. 8/21/78, Register 67; am 2/21/81, Register 77; am 8/24/85, Register 95)

Authority: AS 46.30

*from [unclear] / sent copy*

BILL SHEFFIELD GOVERNOR

**DEPARTMENT OF LAW**

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 13, 1985

M E M O R A N D U M

RECEIVED

TO: Honorable Bill Sheffield  
Governor

FEB 15 1985

FROM: *Norman C. Gorsuch*  
Norman C. Gorsuch  
Attorney General

DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

RE: Attached bill on certification of water  
and wastewater treatment system operators  
Cur file: 377-174-85

Attached is a bill to rectify an error in 18 AAC 74.030 which has gone undetected since 1978. The bill was requested by the Department of Environmental Conservation, prompted by legal advice from us.

The underlying statute, AS 46.30.070, waived the certification examination requirement for wastewater plant operators who were employed as operators on September 24, 1976. However, when the implementing regulation was adopted in 1978, it mistakenly prescribed the cutoff date as September 24, 1978. As a result, numerous operators who were employed as such on September 24, 1978 were issued certificates and have continued to work on waiver without taking the required examination. In addition, many have worked under operator's certificates issued under the Alaska Water Management Association voluntary certification program, which the regulation mistakenly identified as a valid substitute for a certification examination.

The Department of Environmental Conservation believes that experienced operators who were employed as such on September 24, 1978 and operators who were certified under the Alaska Water Management Association Voluntary Certification Program on or before September 24, 1978 are fully qualified to serve as operators and may continue to do so without the need to take the certification examination that the law, in its current form, requires. For this reason, and because so many of the operators relied on the errors in 18 AAC 74.030, we recommend that those individuals (numbering approximately 60) be grandfathered in and be considered properly certified. The attached bill accomplishes this result and is supported by the Department of Environmental Conservation.

Honorable Bill Sheffield  
377-174-85

February 13, 1985  
Page 2

A draft transmittal letter to the legislature is also attached.

NCG:TMJ:rn

cc w/enc.: Hon. Bill Ross, Commissioner  
Dept. of Environmental Conservation

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and wastewater treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

The attached bill will grandfather in those individuals who, before January 1, 1985, applied for and received certification without examination, based upon employment as operators on September 24, 1978 or a valid certificate issued under the Alaska Water Management voluntary

certification program. You should note that this corrective legislation will be uncodified and will not change the existing law in AS 46.30.070; it only alleviates the harm that would be done to operators who relied on the errors in the Alaska Administrative Code while continuing to require others who have not been so affected to comply with the standard the legislature set down in 1976 in AS 46.30.070. It is my recommendation that, after enactment, the revisor of statutes arrange for the inclusion of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

Bill Sheffield  
Governor

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 1/23/86

**REQUEST**

Bill/Resolution No. : CSSB 194 (Res)  
 Title : Certification of water and  
wastewater systems and facilities  
operators  
 Sponsor : Senate Rules for Governor  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : ADEC  
 BRU : Facilities Construction & Operation  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :** none

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Billie Trent Phone : 465-2600  
 Division : Office of the Commissioner Date : 1/23/86

Approved by Commissioner : Bill Ross *Bill Ross* Date : 1/23/86  
 Agency : Department of Environmental Conservation

Distribution (by Agency preparing fiscal note):

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

Department of Environmental Conservation

Position on SB 194

In sections 2 & 3, SB 194 fixes a gap in the certification program.

Our goal in advancing it is to ensure that operators do not lose their certifications as a result of drafting errors made in 1978.

The effect of the bill is to allow 60 operators who received certification through a flawed procedure in 1978 to retain their certifications.

The Department believes that the affected operators have demonstrated that they are competent and that they should be allowed to retain their certification.

The flawed certificates were issued through two means - a grandfather clause and acceptance of voluntary certificates.

The original legislation establishing a mandatory certification program passed as HB 407 in 1976. The bill allowed persons who were already operating plants to be grandfathered into the State Certification program. This provision was at AS 46.30.070. Through a typographical error in regulations adopted under this legislation, this "grandfather" clause was extended longer than was legal under the statute.

The statute intended operators to be grandfathered in until September 1976; the regulations allowed operators to be grandfathered in until September 1978. SB 194 would allow us to treat certifications issued between those dates as valid. This affects five people.

The second issue we want to address is voluntary certification.

Before the State mandatory program was adopted, the Alaska Water Management Association conducted a voluntary program.

When the State program came on line, the regulations allowed certificates issued under the voluntary program to be converted to State certificates. Both programs were based on comparable tests. The regulations were adopted in 1978 as 18 AAC 74.030(2).

This provision proved to have no statutory basis (despite the fact that it probably was a pretty good idea).

We can no longer treat the certificates issued under this procedure as valid.

We would like to be able to do so. This legislation would allow it. This would affect 55 operators.

SB 194 was amended in Senate Resources to incorporate House Bill 450, introduced by Representatives Gruenberg and Jenkins. It addresses another aspect of the statute for the operator certification program.

AS 46.30.060 currently provides that an operator who does not work as an operator for one year loses his or her certification.

Certificates are normally issued for three years.

Many operators object to the one-year requirement.

The Committee substitute for SB 194 would repeal the requirement in the statute.

The Department believes that other requirements of the operator certification program ensure that operators' remain current with developments in their field.

Consequently, we do not believe that the one-year requirement is necessary for successful administration of the program.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to rectify an old error in the Alaska Administrative Code.

In 1978, the legislature passed AS 46.30.070, which addresses the certification of operators of water and wastewater treatment facilities. The statutory scheme required certification by examination, but sec. 70 exempted from the examination requirement those persons who were employed as operators on September 24, 1976. When implementing regulations were adopted in 1978, what appears to have been a typographical error identified the cutoff date as September 24, 1978. See 18 AAC 74.030(1). The regulation also erroneously provided for an examination waiver for applicants holding certificates issued under the Alaska Water Management Association voluntary certification program. See 18 AAC 74.030(2). In reliance on these errors, many operators did not take the required examination. Today there are approximately 60 operators who are so certified.

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of this uncodified law as a note in the published Alaska Statutes, following AS 46.30.070.

The Department of Environmental Conservation fully supports this bill and believes that the grandfather rights may be extended to the affected individuals with confidence that there will be no threat to the safe and efficient operation of water and wastewater treatment facilities, since the affected individuals have competently performed their duties in the past. I urge your prompt action on this remedial legislation.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned to the right of the typed name.

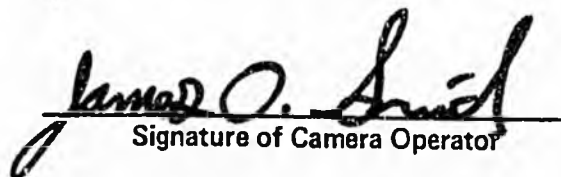
Bill Sheffield  
Governor




# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

SB

201

HOUSE  
COMMITTEE REPORT

5/7

(9)

Date referred: 4/30/86

FURTHER REFERRALS: FINANCE

DATE: May 7, 1986

The RESOURCES Committee has considered CSSB 201(Fin)  
"An Act creating a public access fund."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS for CSSB 201 (Resources)  same title
- new title

and recommends No recommendation

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

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz Dick Shultz

Miller W. Miller

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\_\_\_\_\_

James Pearce No Rec

Jorge Jenkins No Rec

Alto Cato No Rec

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Dick Shultz  
Co-Chairman Shultz

= new  
 = old  
 = combination

Bradley ✓  
5/6/86

Original sponsors: Rodey, Bennett,  
Kerttula, et al

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
 2 HOUSE CS FOR CS FOR SENATE BILL NO. 201 (Resources)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FOURTEENTH LEGISLATURE - SECOND SESSION  
 5 A BILL

6 For an Act entitled: "An Act creating a public access fund."

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

8 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature  
 9 finds that access to state waters for fishing, hunting, guiding, boating,  
 10 lodge operation and other recreational uses is very important to the econo-  
 11 my of the state. State waters, and public access to those waters, is  
 12 critical to the interrelated recreation, tourism, guiding and lodge indus-  
 13 tries. These industries support a large number of small, resident Alaska  
 14 businesses. Recreational use of state waters is also extremely important  
 15 to the people of the state. The legislature further finds that many of the  
 16 state's popular freshwater and marine fisheries are severely overcrowded  
 17 and that increasing the ease of access to additional waters suitable for  
 18 recreational uses would enhance the enjoyment by the people, would be  
 19 beneficial to the economy, and would reduce the overcrowding on the already  
 20 popular waters.

21 (b) It is the intent of the legislature to encourage state programs  
 22 to develop access to additional waters of the state near the state's major  
 23 population areas.

24 \* Sec. 2. AS 38.05 is amended by adding a new section to read:

25 Sec. 38.05.874. PUBLIC ACCESS FUND CREATED. (a) There is  
 26 created in the general fund a public access fund. The fund consists  
 27 of money derived under this subsection and contributions from indi-  
 28 viduals and corporations. The fund shall be invested by the commis-  
 29 sioner of revenue. The commissioner of revenue shall prepare the

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permanent fund dividend application to allow applicants to designate that \$5 of the dividend be subtracted from their check and deposited in the public access fund. The Department of Revenue may use money in the public access fund to pay administrative costs incurred under this subsection.

(b) Except as provided in (a) of this section, the commissioner shall administer the fund. The commissioner, after public hearings and in consultation with the commissioner of fish and game and the commissioner of transportation and public facilities, may use money in the fund to develop boating access, including the purchase and lease of land, easements, and rights of way to enhance public access to recreational areas.

(c) The title to rights of public access to recreational areas obtained by the commissioner vests in the state. The commissioner shall include in the instrument transferring title to the state a clause requiring that the land be used for public access. If the land ceases to be available for public access, the state shall pay the assessed value of the land to the fund.

(d) If the state receives funds under 16 U.S.C. 777-777k (Sport Fish Restoration Act), approximately 20 percent of the funds shall be used to implement the provisions of this section. Expenditure of funds received by the state under this subsection is subject to the approval of the commissioner of fish and game.

(e) The legislature may appropriate to the fund.

(f) The commissioner may adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary to implement this section.

\* Sec. 3. AS 38.50.010 is amended to read:

Sec. 38.50.010. AUTHORIZATION. Subject to the requirements of

1 this chapter, the director, with the concurrence of the commissioner,  
2 is authorized to dispose of state land or interest in land by exchanging  
3 it for land, interest in land, or other consideration. Exchanges  
4 shall be for the purpose of consolidating state land holdings, creat-  
5 ing land ownership and use patterns which will permit more effective  
6 administration of the state public domain, using funds from the public  
7 access fund to create access to waters of the state with high value  
8 for recreational uses, facilitating the objectives of state programs,  
9 or other public purposes.  
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# COMMITTEE REPORT

(9)

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and recommends No recommendation

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

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz Dick Shultz

Miller (H.W.) Miller

Harold ... - No Rec

Roger Pearce No Rec

John Jenkins No Rec  
John Cato

Dick Shultz  
Co-Chairman Shultz

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
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JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4907

## Senate Committee on Resources

The proposed committee substitute combines the provisions of SB 201 "An Act creating a public access fund" with the provisions of SB 462 "An Act relating to access to recreation areas". The combined committee substitute has the support of the sponsors (Senator Rodey and the Senate Resource Committee) of both bills.

A sectional analysis of the bill follows.

Section 1 of the bill is findings and intent.

Section 2 creates the public access fund. The fund consists of money derived from four sources:

- 1 - contributions from individuals and corporations
- 2 - the legislature may appropriate to the fund
- 3 - individuals may designate that \$5. of their permanent fund dividend go to the fund.
- 4 - approximately 20% of the federal funds available to the state under the Wallop-Breaux amendment to the Sport Fish Restoration Act.

The Commissioner of Revenue invests the fund. The Commissioner of Natural Resources administers the fund. After public hearings and consultation with the Commissioners of Fish and Game and Transportation and Public Facilities, DNR may use money from the fund to develop boating access, including the purchase and lease of land, easements and rights of way to enhance public access to recreational areas.

This section also specifies that title to rights of public access to recreational areas obtained by the commissioner vests in the state and that if the land ceases to be available for public access, the state shall pay the assessed value of the land to the fund. To comply with a federal requirement, expenditure of Wallop-Breaux funds is subject to the approval of the Commissioner of Fish and Game.

Section 3 of the bill adds using public access funds to create access to waters of the state with high value for recreational uses as one of the purposes for which the director of the division of lands and waters may exchange land. DNR has testified that they feel they already have this power, but have been reluctant to use it because it was not explicit in statute.

SB 462 has zero fiscal notes, it has the support of the Departments of Fish and Game and Natural Resources, as well as being a priority of the Alaska Outdoor Council, the Alaska Sportfishing Association. Representatives of the Resource Development Council and the Alaska Miners Association have said that not only do they not object to it, they believe it is a good idea.

SB 201 has a zero fiscal note and also enjoys wide support. The combination of these two bills create a unified package for creating access to additional waters near the state's major population areas.

The CS has no adverse effect on private property and does not lock up state land. Legal Services has reviewed this bill carefully and states it is not a dedicated fund and is fully constitutional.

Included in this packet are fiscal notes on SB 201 and SB 462, a copy of the SFI bulletin which discusses the Wallop-Breaux amendment, and a memo from Fish and Game on access.

## Alaska Recreational Fishery Access, Enhancement and Development

### Need:

Alaska, with a population of 510,554 people (1983) and land-mass of 586,412 square miles (1/5th the size of the contiguous lower 48 States), has a severe access problem. Although the state has over 3,000,000 lakes and 365,000 miles of rivers, it has only about 2500 miles of state maintained paved, 2960 miles of unpaved roads and 8400 miles of local government and specialty (includes National Park Service and military) roads. Access to the states fish and wildlife resources is severely restricted and inadequate. This limited access results in concentration of fishing effort, habitat degradation, restricted management options and social conflicts.

However, even with limited road access to fishery resources, fishing is still the most popular outdoor passtime in Alaska. Of the 335,608 anglers who fished in 1984, 71% were Alaska residents and 29% were non-residents. This represents a 6% increase in resident anglers and a 15% increase in non-resident anglers over 1983. Since 1977 the average annual increase in anglers has been 8% (7% for resident anglers and 11% non-resident anglers).

Fishing is concentrated along the road system and near the population centers. Of the 1,366,837 angler-days fished in 1984, 1,341,658 (72%) were expended in the Southcentral region of Alaska, 326,138 (17%) were expended in the Southeast region, and 199,041 (11%) were expended in the Arctic-Yukon-Kuskokwim region. The Cook Inlet area, within the Southcentral region, had 1,109,727 days (59%) of the State's total sport fishing and the Kenai Peninsula had 668,161 angler-days or 36% of the State total. The Kenai River alone had 270,422 angler-days of use or 14% of the State total.

For all its lakes, streams and anglers, the state has only 31 boat launching facilities statewide. A few private launch ramps also exist. This limited boat access concentrates fishing to areas near the launching facilities, creates traffic congestion problems, and destroys needed habitat as a result of overcrowding. On busy days boat owners often must wait for extended periods of time to launch their boats and then drive up to 1 mile to park their cars and trailers before going fishing. A lengthy wait also accompanies removal of boats from the water.

### Identified Access problems include

1. Insufficient parking at limited access points which results in illegal parking along public roads creating a safety hazard and unauthorized parking on private property;
2. Limited access sites which force walk-in use across private property to popular fishing locations. Repeated use creates unwanted trails, accumulation of garbage and general destruction of the aesthetic value of the private property;

3. High use of inadequate or undeveloped boat launch facilities which destroys habitat through stream and bank degradation, siltation, misuse of private property to access water sites and illegal parking of boat trailers;
4. The degradation of existing sites through excessive use which creates sanitation problems, social conflicts and loss of aesthetic values.

The goal of this project is to increase or improve public access for fishing through the purchase of lands, development of facilities, and enhancement of state lands and waters.

Objectives.

1. To provide angler and boat access to recreational fishing waters;
2. To construct, develop, improve and maintain facilities and lands acquired or used by recreational anglers;
3. To increase and/or improve the quality of habitat for sport fish;
4. To provide necessary support facilities for the administration, or management of recreational fisheries.

Expected Results and Benefits:

- A. Acquisition of lands and access opportunities (rights-of-way and easements) will ensure dedicated accessibility to the fishery resources for the public.
- B. Acquired sites will be managed and operated to provide primary benefits to the recreational angler and boater and help in distributing angler effort throughout a greater area of a particular fishery or among suitable fisheries.
- C. Additional access sites will allow more anglers to participate in a fishery, and will allow those who presently use a fishery to reduce conflict by dispersing effort over a larger area and reducing congestion on existing sites.

Additional sites may allow anglers to reach fisheries not presently accessible from existing locations (e.g. acquiring a suitable site that favors a boat launching facility) thereby increasing management options for harvest regulation.

- D. Allow development of new fisheries.

Facility developments will improve the aesthetic qualities of the recreational fishery and lessen impacts on the environment. This will be accomplished by: providing the necessary camping, eating and sanitary facilities for public use; improved access to accommodate vehicle and

foot traffic; increased vehicle and trailer parking and paving of such areas thereby reducing conflict; maintaining streambank integrity; and, reducing siltation and pollution.

Field support facilities, when required, will allow proper supervision of select fisheries in terms of fishery monitoring and data acquisition. Habitat improvements should increase fish production and expand waters available for enhancement.

Approach:

Land Acquisition/Access.

Land will be acquired by fee-title purchase, lease, or right-of-way/easements for the purposes of public access, boat launching ramps, parking lots, and camping facilities. Land will be also acquired by willing seller/buyer negotiations and in accordance with P.L. 91-646 Uniform Relocation and Real Property Acquisition requirements.

Operational Plans will be submitted with the Project Agreements for acquisition of land parcels and will conform to FA Manual requirements, Chap 10 Land Acquisition. Examples of information to be provided:

1. The soil characteristics, topography, and vegetative communities.
2. The surface waters, mineral and water rights.
3. The fish and wildlife species, abundance and distribution on the property.
4. Existing capital developments, use of area by landowners or lessees.
5. Use of area by the public (types of use, man-days expended, harvest of fish and wildlife, etc.).
6. Pertinent planning and administration related to lands in the vicinity.
7. Summary of appropriate hydrologic, engineering, geologic or other technical investigations that support the property's suitability for development.
8. Cooperative Agreements relating to project objectives.

Priorities for acquisition or improvement of access will include, but not be limited to:

1. Economic importance. Importance to the local community;
2. Public importance. The number of people who use the area, the man-days of effort expected, safety factors, trespass problems and distance from metropolitan areas;

3. Biological/Ecological importance. Will site provide access to new fisheries, suitability of site, ability of resource to accommodate existing and potential use, etc;
4. Political significance. Are matching funds being provided by local interests, or have political decisions (funding) prescribed priority to the project.

#### Development.

Development activities will include the construction, modification or improvement of access sites. Such activities may include, but not be limited to, land clearing, access road construction, boat launching ramp construction, trail development, hard surfacing (e.g., black top) of parking areas and access roads, addition to ramps, and/or construction of floats and piers, navigational aids, mooring buoys, bank stabilization projects, sanitary and camping facilities, and other amenities that provide needed public services for sport fishing purposes.

Field support facilities will be considered on a case-to-case basis for special fisheries. This activity may construct cabins to house seasonal employees conducting creel censuses, or caretakers, and include necessary support items such as water, sewer, electrical and other services.

Procedures for facilities requiring user fees, concessions, caretakers or custodians will be incorporated in Operational Plans and submitted at the time of acquisition with the Project Agreement.

Habitat improvements will incorporate construction of water level stabilization structures, weirs and barriers to control ingress and egress of fish, or for ecological improvements to waterways and standing waters. In many instances, nonproductive or marginal waters may only require structures to provide water level stabilization and/or control of fish movement when associated with stocking to provide an acceptable fishery. Jobs developed under this project will have detailed operational plans, and materials lists as required for the activity.

For all construction items costing more than \$100,00, a qualified engineer will approve engineering plans and estimates, approve the feasibility determination, supervise the construction, and furnish a report of final inspection. All other construction activity will apply acceptable engineering standards commensurate with the level of complexity and magnitude involved.

#### Enhancement.

Enhancement in this project refers to improvements in the properties discussed in this document under the Land Acquisition/Access and Development sections.

Location.           Statewide



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

9/5/89  
Date

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Original sponsor: Rules/Governor

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IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 232 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to minimum work commitments in oil  
and gas leases; and providing for an effective date."

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

\* Section 1. AS 38.05.180(h) is amended to read:

(h) The commissioner may include terms in any oil and gas lease imposing a minimum work commitment on the lessee. These terms shall be made public before the sale, and may include appropriate penalty provisions to take effect in the event the lessee does not fulfill the minimum work commitment. If [SHOULD] it is [BE] demonstrated that a lease has been proven unproductive by actions of adjacent lease holders, the commissioner may set aside a work commitment. If a minimum work commitment is not fulfilled because conditions preventing drilling or exploration were not reasonably foreseeable by the lessee or were beyond the lessee's control, the commissioner may waive for two years any term of the minimum work commitment.

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

AS 38.05.180 IS THE STATE OIL AND GAS LEASING AUTHORITY WHICH PROVIDES THE STIPULATIONS UNDER WHICH THE STATE'S LANDS ARE LEASED FOR OIL AND GAS DEVELOPMENT.

AS 38.05.180 (p) PROVIDES FOR LEASEES ON STATE OIL AND GAS LEASE LANDS TO POOL THEIR PROPERTIES INTO A UNIT . UNDER THE UNIT, THE LEASEES AGREE TO ITS COOPERATIVE MANAGEMENT AND DEVELOPMENT. SUBSECTION (p) ALSO PROVIDES THAT THE COMMISSIONER OF NATURAL RESOURCES MAY CHANGE THE DRILLING, PRODUCING OR ROYALTY REQUIREMENTS TO PROTECT THE PUBLIC INTEREST. THIS SUBSECTION ONLY APPLIES TO PRODUCING LEASES AND IS MEANT TO CONSERVE THE RESOURCE THROUGH THE MANAGEMENT/DEVELOPMENT PLAN.

THE COMMITTEE SUBSTITUTE FOR SB 232 (FINANCE) SEEKS TO PROVIDE THE SAME DISCRETION TO THE COMMISSIONER ON STATE OIL AND GAS LEASE LANDS NOT MANAGED UNDER A UNIT PLAN TO CHANGE OR SPECIFICALLY, WAIVE THE WORK COMMITMENT REQUIREMENTS OF A LEASE AGREEMENT FOR A PERIOD OF TWO YEARS. THIS WAIVER AUTHORITY WOULD APPLY TO EXPLORATORY OR WILDCAT TYPE LEASES AND WOULD PROVIDE FLEXIBILITY TO THE COMMISSIONER IN DEALING WITH INDEPENDENT OPERATORS ON STATE LANDS.

SENATE LETTER OF INTENT

CSSB 232 (FIN)

It is the intent of the Senate that the discretionary authority granted in this legislation not be used to extend the term of the minimum work commitment in any situation where constitutional constraints dictate otherwise.

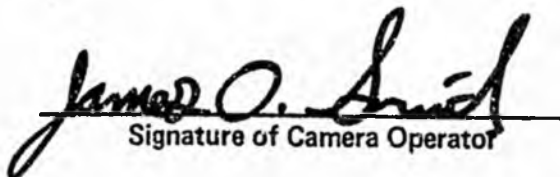
Adopted by the Senate May 9, 1985.

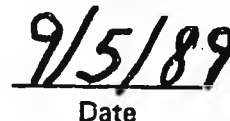


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Signature of Camera Operator

  
Date

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## Alaska Environmental Lobby, Inc.

204 N. Franklin Street, Suite 3 Juneau, Alaska 99801

907-586-2345

TESTIMONY ON SB 269 - Cabins on state lands  
2/28/86 by Kate Pendleton

The Alaska Environmental Lobby opposes Senate Bill 269. In principle, we do not believe it is wise to promote a system of private in-holdings on public lands. This bill would allow people who built unauthorized cabins on state lands to acquire title to the land which rightfully belongs to the citizens of the state.

We believe the State has been generous in its policies regarding the use of private cabins on state lands, but to create a pattern of land ownership today that would result in future problems for our resource agencies is definitely not responsible planning.

We feel that the Department of Natural Resources has adequately addressed the concerns of those who built cabins on unauthorized lands. The current cabin permit program administered by the DNR allows applicants life-long use of existing private cabins before they revert to state ownership. In addition, leasing of state land for the construction of private cabins is allowed. (by AS 38.05.079.). Similar statutes also allow for the purchase of five acre parcels of state land by operators of existing commercial enterprises and the construction of trapping cabins for a \$10 application fee.

Under the proposed legislation, once a person owns the cabin and the surrounding acre, they can do anything they want on that piece of land. The ramifications of intensive use of this acre are far reaching. In addition, if there are many located in close proximity, there arises the questions of access, and the states responsibility for providing services for the people using these lands, the same costly issue facing the state land disposal program. In essence, this bill is just another land disposal program. In a recent Anchorage Daily News article, the state legislative finance division claimed that in the next 10 years, services for land disposals will cost the state more than a half-billion dollars.

Page 2

Testimony on SB 269

This bill does not meet the needs of the Alaskan public. It merely gives preference rights to a small, select group of people who chose to knowingly build unauthorized cabins on state land and who now feel they should be entitled not only to use of their cabin at that site, but also to title of public lands surrounding their cabins.

We believe that Alaska is doing more than is necessary to promote private use of state lands and that SB 269 goes too far in diminishing the integrity of current and potential resource management in the state.

Remarks to the House Resources Committee on 2/28/86

Mr. Chairman, members of the Committee, my name is Charles Christensen. I am an aide to Senator Don Bennett, the prime sponsor of Senate Bill 269.

SB 269 was drafted in response to an ongoing problem faced by many cabin owners in Alaska. Stated in its simplest terms, the problem is that many Alaskans own cabins, but not the land which the cabins sit upon.

The Department of Natural Resources recognized this problem in 1984, and in an effort to resolve it, drafted regulations which would allow a cabin owner to obtain a non-transferable permit to occupy his or her own cabin. SB 269 was designed to correct what many see as the deficiencies in this permit program.

I have reviewed the Substitute prepared by the Committee. Briefly, this version of the bill would grant DNR the discretion to sell up to one acre of land to the person who possessed a cabin, at the land's fair market value. In order to qualify for this program, the cabin must have been built prior to January 1, 1980. Like most of the 16 other preference statutes which give DNR the authority to dispose of state land in a non-competitive way, the Committee Substitute would require DNR to consider the state's best interests before making a sale.

There are many reasons why over the years people built cabins on land owned by the state or federal government. Some built on land which was open to entry at the time. Some built on land which they thought was open to entry, but made an honest mistake. Many built on land which they assumed, incorrectly, would eventually be made available to the public. This is a particular problem in Alaska, given the uncertain and constantly changing status of large tracts of land up until the early 1980's. Many residents of the bush built cabins in years past without any consideration given to the land's status, because their economic or physical survival required it.

And of course, many people built cabins on public land simply because the governments which controlled the land have historically been unresponsive to the desires of the people in this state to have a piece of land they can call their own.

Criticisms of this bill's objectives seem to fall into two primary categories. One is that this bill is bad public policy because it rewards people for building a cabin on land which did not belong to them.

Two response to this criticism are in order. First, for some of the reasons I have cited, there are many categories of people who did not build their cabin without regard for the land's status. The land was open to entry.

Second, statutes of this type are the rule rather than the exception in the history of American land disposal. From the earliest days of the frontier, there have been persons who built on public land before the land's status was determined by Congress. In the years from the early 1800's onward, Congress passed dozens of "pre-emption acts." These said in effect that a person who made improvements on public land could buy it from the government, notwithstanding the fact that they were trespassers.

Two types of pre-emption acts were passed. The earliest were acts of special pre-emption, which benefited only certain classes of trespassers. These are analogous to several of the preference acts passed in Alaska since statehood, which give certain categories of persons, such as persons with a cabin in an area which has since been selected for remote parcel designation, the option to purchase the land.

The second type was the general pre-emption act, the first of which was passed in 1830, which benefited anyone who improved public land. SB 269 is analogous to the general pre-emption acts.

It is important to note that the most recent federal pre-emption act passed was the Alaska Native Claims Settlement Act in 1971. In section 14(c), this statute provided that if improvements to land had been made, such as reindeer corrals, for example, the land underneath the improvement would end up in the hands of the owner, not in the hands of the native corporation which would otherwise be entitled to it.

Because we have in excess of 150 years of special and general pre-emption statutes at the federal level, and many years of such statutes at the state level, it is disingenuous to argue that SB 269 sets a bad precedent, or that it is an aberration in our land disposal policy. In fact, granting public land to the persons who expended time and money to build improvements on it is a longstanding policy in the lower 48 and Alaska.

The second category of objection which is heard is that it is not in the state's interest to dispose of this land.

For the record, it should be noted that the DNR estimate of the number of cabins which are effected by this bill is 1500. At most, therefore, 1500 of the state's 80,000,000 acres will be disposed of. And since fair market price will be paid, the state is not giving anything away.

Moreover, this Committee's substitute does require DNR to make a case by case evaluation of the state's best interest before any land can be transferred.

In conclusion, SB 269 is a reasonable way to solve a problem which has existed for years, and which will be with us for years to come if it is ignored. Senator Bennett has reviewed this committee's substitute for his bill. While he prefers the Senate version, because it does not give DNR any discretion in transferring cabin sites, he defers to the judgement of the committee in adopting this substitute.

COMMITTEE REPORT

3/19

HOUSE

(9)

5/11/85

FURTHER: FINANCE

Date: 3/14/85

The Committee on RESOURCES has had CS SB 269 (Res)

"An Act relating to cabins on state land; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HCS SB 269 (Resources)  same title
- new title
- and recommends individual recommendations
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Shultz Dink Shultz

Cato Walter Cato

Jenkins Kenneth Jenkins

Miller (N) W. Miller

William Thompson

Robert W. Thompson NO REC

Dink Shultz Shultz CO-CHAIRMAN

# 2 withdrawn

AMENDMENT TO CSSB 201

ON Line 13

Insert additional language after cabin to read:

", on the condition that the cabin is only used for non-commercial purposes."

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 03-18-86

**REQUEST**

Bill/Resolution No. HCS SB 269 (Res) AF  
 Title : Cabins on State Land  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Sponsor : Bennett  
 Requestor : House Resources  
 Date of Request : 03-17-86

**FISCAL DETAIL**

Agency Affected : Natural Resources  
BRU: Land & Water Management; Information  
and Records  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	87.5	380.5	438.5	438.5	438.5	438.5
TRAVEL	3.0	40.0	40.0	40.0	40.0	40.0
CONTRACTUAL	6.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES	2.0	6.0	6.0	6.0	6.0	6.0
EQUIPMENT	4.0	12.0	12.0	12.0	12.0	12.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>102.5</b>	<b>488.5</b>	<b>546.5</b>	<b>546.5</b>	<b>546.5</b>	<b>546.5</b>

CAPITAL						
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REVENUE			300.0	300.0	300.0	300.0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	102.5	488.5	546.5	546.5	546.5	546.5
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>102.5</b>	<b>488.5</b>	<b>546.5</b>	<b>546.5</b>	<b>546.5</b>	<b>546.5</b>

**POSITIONS :**

FULL-TIME	2	9	10	10	10	
PART-TIME		1	2	2	2	2
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See attached explanation of yearly program goals. Within seven to ten years operating costs would be reduced to about one-third. Estimate based on 2,000 cabins.

Because this would amount to a major new land disposal program, it will require full administration support in regional offices and contract administration. Annual (See atch.)

Prepared by : DTS/DLWM/Commissioner's Office *AF* Phone : 465-2400  
 Division : \_\_\_\_\_ Date : 03-18-86

Approved by Commissioner : *Norm D. Amundson* Date : 03-18-86 *AF*  
 Agency : Natural Resources

**Distribution (by Agency preparing fiscal note):**

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

Analysis Continued:

costs will include adjudication/survey and appraisal review/planning, etc.

FISCAL NOTE ANALYSIS  
SB 269  
DEPARTMENT OF NATURAL RESOURCES

With the passage of SB 269, the Department of Natural Resources would encounter a large number and variety of administrative responsibilities that could not be met under existing budgets. These responsibilities would include the implementation of regulations for the cabin program, title and records review, survey instructions and review, public notice/decisions/findings, appraisal instructions and review, issuance of title, and contract administration and enforcement where the purchaser chooses to purchase the land over a period of twenty years.

Because the Department estimates that there are 2,000 cabins on state land, and it would be impossible to accomplish the proposed conveyance in a short term, the fiscal impact is estimated for a five- to ten-year cabin land sale program. Most of the administrative handling of cabin purchase applications would be done in the three regional offices: Anchorage, Fairbanks, and Juneau. Both the Division of Land and Water Management and the Division of Technical Services would be closely involved.

YEAR ONE -

1. Prepare regulations for program. How determine the one-acre parcel? How accommodate owners who are within game refuges or state parks? Convey submerged lands title for waterside cabins? Reserve easements/rights-of-way across adjacent public lands and through the parcel? How determine 1980 appraised value and provide for appeals? Who pays survey/appraisal costs? What are conditions for contracts of sale (AS 38.05.065)? May an owner purchase more than one cabin? How prove ownership and use before 1980? What if more than one owner applies to purchase a cabin? Is program open forever at same appraisal amount? What opportunities are there for public notice/comment on proposed conveyances? May the state conduct its own land disposals, timber sales, leases, R/W conveyances if there is an unauthorized cabin nearby or within the area and an application has been filed? Can commissioner decide that less than an acre will be conveyed? May the commissioner prevent subdivision (for other cabins, trailer lots, etc.) within refuges and parks? How prepare survey/appraisal instructions?
2. Announce program to public and begin preparation for applications. Provide application forms, information sheets, procedural directions to all regional staff.

YEAR TWO -

1. Accept applications. Answer public inquiries.
2. Begin adjudicating applications. Determine which are on state lands, notify applicants who are not on state lands. Review proof of cabin construction prior to 1980.

3. Begin public notice, review of cabin conveyances consistent with AS 38.05.945 and AS 38.05.035(e) and constitutional provisions for equal protection and use/management of the public domain.
5. Begin to field check cabins, surveys, appraisals.
6. Begin planning/platting easements and rights-of-way for public needs.

YEAR THREE -

1. Continue 1-6 above.
2. Close application opportunities in some areas, open in others to distribute regional impact of applications on administrative staff.
3. Begin to issue accurate title/quitclaim deed to some applicants who meet conditions.
4. Issue contracts of sale and prepare twenty-year payment schedule and conditions for successful applicants wishing to pay over time.
5. Note title changes, applications on land title records (must record applications immediately on receipt for awareness during other land disposal/management planning).
6. Begin to accept new title documents in recorder's Offices.

YEARS FOUR TO TEN -

1. Continue with the program, aiming to complete within four to seven years.

LINE ITEM EXPLANATIONS - SB 269

FY 86

- 100 - Two positions, 87.5  
1. Natural Resource Manager I (47.5)  
Supervise start-up of program, including regulations and public information  
2. Natural Resource Technician I (40.0)  
Assist in program start-up, begin policy/procedures directives for regional staff, coordinate with survey/title/records staff to assure timely notation of applications on status plats and conveyance of accurate title, coordinate with contract administration staff to begin handling sales contracts
- 200 - 3.0  
Travel to regions
- 300 - 6.0  
Special legal research for regulations
- 400 - 2.0  
Supplies and commodities for new staff
- 500 - 4.0  
Office equipment for new staff (chair, desk, typewriter, file)

FY 87

- 100 - Seven new positions, 293.5 + 87.5 from FY 86  
1,2,3. Natural Resource Technician in each regional office (127.5)  
Begin adjudication/review of applications, provide local response to inquiries, conduct public notice, negotiate difficulties with applicant and adjacent landowners or citizens; begin review of appeals on appraisals, adjudication  
4,5,6. Survey/Title Staff in central/regional offices (127.5)  
Begin survey check (some field work required), conduct full title check, note applications and conveyances on state land records.  
7. Accounting Technician and part-time clerical (38.0)  
Begin issuing contracts of sale for successful applicants
- 200 - 40.0  
Travel to field check cabins/appriasals/surveys, review area resources for possible conflicts
- 300 - 50.0  
Advertising, hearings, legal assitance for adjudicating applications and administering appeals; preparation and issuance of some title documents
- 400 - 6.0  
Supplies and commodities for new staff
- 500 - 12.0  
Office equipment for seven new staff

FY 88-94/5

Continue all costs but add one Accounting Technician and some part-time clerical staff for future contract administration.

Original sponsors: Bennett, Ferguson  
and Coghill

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 269 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to cabins on state land; and provid-  
7 ing for an effective date."

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

9 \* Section 1. Unless prohibited by an area plan adopted under AS 38.04.-  
10 065, on the application of a person who can demonstrate the historic use  
11 and occupancy of a cabin on state land and investments in the cabin before  
12 January 1, 1981 and continuing until the effective date of this Act, the  
13 commissioner of natural resources may sell not to exceed one acre of state  
14 land occupied by the cabin. If the cabin is located on state land that is  
15 adjacent to a body of water, the commissioner shall reserve an easement for  
16 public access not to exceed 20 feet wide above the mean high water line.  
17 The commissioner may not establish restrictions on the use of the cabin or  
18 on future transfers of the land sold under this section. The land may be  
19 sold notwithstanding the location of the cabin on state land that has been  
20 withdrawn under AS 16 or AS 41 subsequent to the erection of the cabin.  
21 Land sold under this section shall be sold for the fair market value of the  
22 unimproved land on the date of the application and the person is respon-  
23 sible for the costs of surveying the land.

24 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

Original sponsors: Bennett, Ferguson  
and Coghill

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 269 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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11 cabin before January 1, 1981 and continuing until the effective date of  
12 this Act, the commissioner of natural resources may sell not to exceed one  
13 acre of state land occupied by the cabin. If the cabin is located on state  
14 land that is adjacent to a body of water, the commissioner shall reserve an  
15 easement for public access not to exceed 20 feet wide above the mean high  
16 water line. The commissioner may not establish restrictions on the use of  
17 the cabin or on future transfers of the land sold under this section. The  
18 land may be sold notwithstanding the location of the cabin on state land  
19 that has been withdrawn under AS 16 or AS 41 subsequent to the erection of  
20 the cabin. Land sold under this section shall be sold for the fair market  
21 value of the unimproved land and the person is responsible for the costs of  
22 surveying the land.

23 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

adopted

AMENDMENT

by Representative Adelheid Herrmann

to Committee Substitute for Senate Bill 269 (dated 3/10/86):

On page one, line nine, begin the sentence with new language to read:

"Unless provided <sup>prohibited</sup> otherwise by an Area Plan,"

Replace the capital "o" with a lower case "o".

AMENDMENT TO CSSB 269

ON Line 13

Insert additional language after cabin to read:

", on the condition that the cabin is only used for non-commercial purposes."

DRAFT  
Law

SB 269  
LP57  
3/11/86

Original sponsors: Bennett, Ferguson  
and Coghill

IN THE \_\_\_\_\_ BY THE RESOURCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 269 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to cabins on state land; and provid-  
ing for an effective date."

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

\* Section 1. On the application of a person who can demonstrate both historic use and continuous occupancy of a cabin on state land together with an equitable interest in the cabin before January 1, 1968 and continuing until the effective date of this Act, the commissioner of natural resources may sell not to exceed one acre of state land occupied by the cabin. If the cabin is located on state land that is adjacent to a body of water, the commissioner shall reserve an easement for public access not to exceed 20 feet wide above the mean high water line. The commissioner may not establish restrictions on the use of the cabin or on future transfers of land sold under this section. Land sold under this section shall be sold for the <sup>current</sup> fair market value of the unimproved land plus the costs of surveying the land and such reasonable administrative costs as the department determines are necessary to carry out the transfer of the land.

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

\* Sec. 3. Unless reauthorized by an Act of the legislature, this Act terminates July 1, 1988.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUGH V  
JUNEAU, ALASKA, 99811  
(907) 465-4907

## Senate Committee on Resources

Senate Resources Committee Minutes

May 1, 1985  
1:35 pm

Senate Resource Members Present

Senator Arliss Sturgulewski, Chairman  
Senator Bettye Fahrenkamp, Vice Chair  
Senator Fred Zharoff  
Senator Vic Fischer

Senator Rick Halford  
Senator Jack Coghill  
Senator Dick Eliason

Calendar

SB 269 "An Act relating to cabins on state land; and providing for an effective date."

HB 280 "An Act creating the Anchor River and Fritz Creek Critical Habitat Area."

SJR 24 Relating to the Americanization of the fishery off the coast of Alaska.

SB 285 "An Act relating to the recoupmnt conveyance for land at Illinois Creek; and providing for an effective date."

HB 186 "An Act creating the Anchorage Coastal Wildlife Refuge."

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Senator Sturgulewski

Called the meeting to order. Senator Sturgulewski opened the Public Hearing on SJR 24.

Paul Kelly, Bristol Bay Herring Marketing Coop, testified in opposition to lines 7 - 10 on page 2 of the bill regarding the Governor's authority to permit joint ventures in Alaska's internal waters. He also objected to the use of specific phase out dates in the resolution.

Greg Baker, Director, Office of Commercial Fisheries Development, Department of Commerce and Economic Development, testified in favor of the bill and stated the Administration supports the time certain phase out date.

Larry Cotter, USA Coalition Committee President, International Longshoremen's and Warehousemen's Union, Local 200, presented written testimony in support of the resolution to the committee and testified in favor of a time certain phase out date in the SJR 24.

Jeff Stephan, Manager, United Fishermen's Marketing Association, Inc., and member of the North Pacific Fisheries Management Council (NPFMC), testified in support of SJR 24. In response to a question from Senator V. Fischer, Mr. Stephan stated that the NPFMC's position on SJR 24 is unclear. Senator Fischer stated he would like the resolution addressed to the NPFMC also.

John Cleveland, Sea-Land Service, testified that the transportation industry supports the resolution.

Bix Bonney, representing two sportfishing groups from Anchorage, testified in support of SJR 24.

Rick Lauber, Alaska Seafood Processers, testified in support of the resolution and stated he believes there has to be a cut-off date in order to Americanize the industry.

Senator Sturgulewski stated she would continue the Public Hearing on SJR 24 on Friday.

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Senator Sturgulewski opened the Public Hearing on SB 269.

Tom Hawkins, Director, Division of Land and Water, Department of Natural Resources, testified that they would like the committee to defer action on SB 269 until the recent permitting process in the Department has a chance to set a track record.

David Caylor, Alaska Environmental Lobby, testified in opposition to SB 269.

Joe Geldhof, Assistant Attorney General, Department of Law, stated that the constitutionality of the bill in its present form could be challenged and provided the committee with a written legal opinion.

Dennis Kelso, Deputy Commissioner, Department of Fish and Game, stated the department does not support SB 269.

Senator Halford moved to change the date on p. 1, line 12 from 1980 to 1968 and add "if the land was open to entry under applicable state or federal laws at the time the cabin was erected" and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

Ron Somerville, Alaska Outdoor Council, supports the bill in amended form.

Senator Sturgulewski asked Mr. Geldhof if the amendment changing 1980 to 1968 would cause constitutionality problems. Mr. Geldhof stated he

believed it would. Senator Sturgulewski asked Mr. Geldhof to prepare a legal opinion for the committee.

Senator Halford moved on p. 1, line 9 to change the word "possesses" to "owns" and asked unanimous consent.

Senator Fahrenkamp objected.

Senator Sturgulewski took a roll call vote on the motion:

Senator Coghill	No
Senator Halford	Yes
Senator Fahrenkamp	No
Senator Zharoff	No
Senator V. Fischer	Yes
Senator Sturgulewski	Yes

Senator Sturgulewski stated the amendment had failed.

Senator Sturgulewski closed the Public Hearing on SB 269.

Senator Halford moved on p. 1, lines 14 and 18 to change the date from 1980 to 1968 and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

Senator Halford moved to rescind his motion on the date change on line 14 and delete the phrase "on January 1, 1980" on line 14 and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

Senator Halford moved to delete the word "higher" on p. 1, line 17 and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

Senator Halford moved to rescind the committee action on the failure of his motion to change the word "possesses" to "own" on p. 1, line 9 and asked unanimous consent.

Senator Fahrenkamp objected and so Senator Sturgulewski took a roll call vote:

Senator Coghill	No
Senator Halford	Yes
Senator Fahrenkamp	No
Senator Zharoff	No
Senator Eliason	Yes
Senator V. Fischer	Yes
Senator Sturgulewski	Yes

The motion carried and Senator Sturgulewski took a roll call vote on

Senator Halford's motion to change the word "possesses" to "own" on p. 1, line 9:

Senator Coynill	No
Senator Halford	Yes
Senator Fahrenkamp	No
Senator Zharoff	No
Senator Eliason	Yes
Senator V. Fischer	Yes
Senator Sturgulewski	Yes

Senator Sturgulewski stated that the motion had passed.

Senator Fahrenkamp moved CS SB 269 (Resources) with individual recommendations and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

---

Senator Sturgulewski opened the Public Hearing on SB 285.

Roy Huhndorf, President, Cook Inlet Region, Inc., testified in support of SB 285 and gave the history leading up to the bill. He stated that this bill would bring them up to about 90% of their land entitlement.

Gary Gustufson, Chief, Land Division, DNR, testified in support of the bill.

Senator Sturgulewski closed the Public Hearing on SB 285.

Senator V. Fischer moved SB 285 with individual recommendations and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

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Senator Sturgulewski stated that CS HB 186 (Resources) was before the committee.

Senator V. Fischer stated that this same bill had already been before the committee in the form of a senate bill and been passed out of the committee. He noted two changes in the house version. Senator Fischer moved CS HB 186 (Resources) and the letter of intent with individual recommendations and asked unanimous consent.

Senator Sturgulewski hearing no objection, so ordered.

Senator Sturgulewski adjourned the meeting.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUGH V  
JUNEAU, ALASKA. 99811  
(907) 465-4907

## Senate Committee on Resources

Senate Resources Committee Minutes

April 29, 1985  
1:35 pm

Senate Resource Members Present

Senator Arliss Sturgulewski, Chairman  
Senator Bettye Fahrenkamp, Vice Chair  
Senator Fred Zharoff  
Senator Dick Eliason

Senator Vic Fischer  
Senator Jack Coghill  
Senator Rick Halford

Calendar

State Planning Overview

SB 269 "An Act relating to cabins on state land; and providing for an effective date."

HB 280 "An Act creating the Anchor River and Fritz Creek Critical Habitat Area."

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Senator Sturgulewski stated that the state planning overview would be the first order of business.

Don Collinsworth, Commissioner, Department of Fish and Game, stated that the ADF&G's planning breaks down into two categories. The first is where they participate in planning processes that are being led by either other state or federal agencies. The second is where ADF&G has the planning lead to develop management plans for critical habitat areas, state game refuge areas, and state game sanctuaries. In the first instance, Commissioner Collinsworth stated they provide much of the fish and wildlife population and life history information that goes into the management plans. He stated they also provide much of the habitat information that becomes part of the habitat inventory information that is part of the plans. He stated they participate in the review of state plans as they reach completion and through a cooperative agreement, they participate as a planning team member for DNR's area plans, provide technical information and expertise as the plans are developed. They review other state plans fully before they are finalized. He stated they are involved in the review of the federal land use plans through the Conservation System Unit (CSU) coordination process

and membership on the Alaska Land Use Council (ALUC). Commissioner Collinsworth stated they are currently involved in completing 3 state area plans and DNR is proposing to start 3 more plans.

Commissioner Collinsworth stated they received funding for a planning position in FY 85 and they have worked to develop a planning process that provides for wide agency and public involvement meeting the mandates of the Administrative Procedures Act to help move those plans through a public participation process. He stated they have also developed a plan schedule.

In answer to questions, Commissioner Collinsworth stated that there are a wide range of activities that are compatible in critical habitat areas.

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Vince O'Reilly, Deputy Commissioner, Department of Commerce and Economic Development, stated their plans come from various sources. Federal plans covering wilderness and national parks. He stated that decisions concerning economic development have largely been made for this class of plan before it comes DC&ED. He stated they are involved in federal plans for BLM and other federal lands which have a multi-purpose use. They are also involved in the Coastal Zone Management Plans. He stated they have input into state plans principally from the departments of Natural Resources and Transportation and Public Facilities. They try to bring economic development into the plan. He stated they do not get too involved in local comprehensive plans.

Mr. O'Reilly stated that a plan comes into the department and is routed to the divisions that would be concerned with it. Reviews are then conducted and consolidated. If there are conflicts between divisions, the Deputy Commissioner steps in to resolve them. From there comments on the the plan goes to the Commissioner for his review and signature.

Mr. O' Reilly stated they sit on the following committees: Fisheries Mini-Cabinet, Timber Task Force, Tuesday Club, Tourism Advisory Board, Alaska Power Authority, Alaska Railroad, Coastal Policy Council. He stated formal and informal discussions and conferences are held at the cabinet level.

In summary Mr. O'Reilly noted (1) that plans reviewed come from various sources, some have the capability of being modified by economic development considerations, some don't; (2) assignment of personnel and funding will barely achieve the amount of department input to be effective in reviewing plans from an economic development perspective; (3) the department's organization of planning effort is in place though thin.

In answer to a question, Mr. O'Reilly stated the department does take an advocacy role in development areas. He also stated that they are more involved in commenting on plans than drafting the plans.

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Richard Knapp, Commissioner, Department of Transportation and Public Facilities, stated that each regional division has a planning section and are charged with regional planning. The headquarters planning organization looks at an overall statewide plan and ties together system plans and analyzing developmental plans so they can come up with regional system

plans. He stated that development plans look at what may be happening in a region and what will its impact be on transportation needs. This involves other departments and so they are formally involved with them. System plans can deal with a region down to a municipality. This would be a plan like the Anchorage Municipal Area Transportation System. This is to minimize conflicts between municipal and state concerns.

Commissioner Knapp stated they have a seat on the Alaska Land Use Council and on the Coastal Zone Management Committee.

In answer to questions, Commissioner Knapp answered they get involved with the CSU's at the review stage. As far as development of state plans, Commissioner Knapp stated they have not been as involved as they should be. He stated that their involvement with the federal plans has been unsatisfactory but he stated he now has a special assistant who will be his liaison on the Land Use Council and will be involved with the plans from the beginning.

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Jeff Smith, Deputy Commissioner, Community and Regional Affairs, stated they are involved in planning in three major categories: (1) special and statewide programs; (2) coastal management and regional strategy programs operating primarily at the regional level; and (3) local planning programs.

He stated that under the special programs category, Commissioner Notti is chairman of the Rural Issues Mini-Cabinet. This cabinet has looked at a number of planning issues such as the Alaska Land Bank Program, Capital Improvement Planning and the Rural Energy Technical Assistance Program. Also under the special programs category are the Oil and Gas Leasing Programs, Fisheries and Mining. He stated the department has also been involved with the Conservation System Unit planning.

Mr. Smith stated that under the Regional Scale Planning Projects, the department has been involved with the Alaska Coastal Management Program and the department's own Regional Strategies Program.

Mr. Smith stated the department has been involved with local planning programs financially, technically, and implementational assistance to communities both urban and rural throughout the state.

Mr. Smith noted that under Section 14(c)(3) of the Alaska Native Claims Settlement Act, the village corporation is required to convey land to the community for existing and foreseeable community needs. He stated that the department's ANCSA Assistance Program is designed to assist the 200 ANCSA communities in preparing community plans to identify current and foreseeable land needs, including rights of way and plans of survey necessary to accomplish the conveyance of 14(c)(3) land.

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Terry Hoefflerle, Southeast Alaska Community Action Program, spoke to the committee about Native Allotments. He stated that over 9,000 Alaskans have unsatisfied allotment claims on Alaskan lands. He stated that their land holdings compromise inholding in all the CSU's that have been discussed. He stated the land claims are within and around nearly every community in the state. He stated they pose serious problems to development of those

communities as long as their claims remain unresolved. He stated the Alaska Land Use Council can help these people and urged the Legislature to do what they can to help.

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Senator Sturgulewski opened the public hearing on CS SS HB 280.

Mike Navarre, prime sponsor of the bill, gave an overview of the critical habitat area discussed in the bill.

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Senator Sturgulewski opened the public hearing on SB 269.

Senator Bennett, prime sponsor of the bill, testified in support of the bill and gave an overview of the bill.

Senator Sturgulewski stated the public hearing on SB 269 would be continued.

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Senator Sturgulewski stated the committee would return to the public hearing on CS SS HB 280.

Joanna, Paul and Nora Manwiller testified via the Homer teleconference in favor of the bill.

Vicke Pugil, Mayor, Kachemak, via Homer teleconference, testified in support of the bill.

Senator Paul Fischer, testified in support of the bill.

Roberta Highland, Co-chairman, Citizens for Responsible Land Use, testified in support of the bill via Homer teleconference.

Senator Zharoff pointed out the permanency of the designation of a critical habitat area.

David Vanderbrink, Chairman, Critical Habitat Area Task Force, testified via Homer teleconference in support of the bill.

Paul Carlson, 25 year resident of the area, testified via Homer teleconference in support of the bill.

Chuck Parker, Wildlife Alliance of Alaska, Hunting Guide, and the Sierra Club, testified via the Anchorage teleconference in support of the bill.

Cliff Eames, Alaska Center for the Environment, testifies via the Anchorage teleconference in support of the bill.

Ned Farquhar, Special Assistant, DNR, testified the department had worked closely with the sponsor of the bill to provide for multiple-use. He noted that critical Habitat area designation is probably the most restrictive language in statute but believes the language in the bill allows them to continue with other uses in the area but would probably prevent conveyance to the municipality.

Denny Kelso, Deputy Commissioner, ADF&G, testified the department supports the bill because of the moose population. He noted that Fritz Creek could be used as a water source. He stated he has worked with DNR and the sponsor of the bill.

Senator Zharoff stated he would like an amendment to put a repealer on the bill.

Senator Sturgulewski stated the public hearing would be continued and adjourned the meeting at 3:30.

Bradley  
2/15/86 ✓

Original sponsors: Bennett, Ferguson  
and Coghill

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 269 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to cabins on state land; and provid-  
7 ing for an effective date."

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

9 \* Section 1. On the application of a person who possesses a cabin on  
10 state land on the effective date of this Act, the commissioner of natural  
11 resources may sell not to exceed one acre of state land occupied by the  
12 cabin if the cabin had been erected on the land before January 1, 1980.  
13 The state land shall be sold for the fair market value of the land as  
14 determined by the commissioner. The applicant shall pay costs of surveying  
15 the land. If the cabin is located on a waterfront, the commissioner shall  
16 reserve an easement not to exceed 20 feet wide above the mean higher high  
17 water line. If the cabin is located in land that has been withdrawn under  
18 AS 16 or AS 41 since January 1, 1980, the land may be sold notwithstanding  
19 its withdrawal. The commissioner may not establish restrictions on use of  
20 the cabin or on future transfers of the land sold under this section.

21 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
22 10.070(c).

SENATE FINANCE COMMITTEE

May 11, 1985

2:35 p.m.

SFC 85-61, Side 1, #001 - End  
SFC 85-61, Side 2, #001 - #325

Excerpt from Minutes:

SB 269                                    "An Act relating to cabins on state land; and providing for an effective date."

Senate President Don Bennett, prime sponsor, advised this bill was introduced predicated upon what he believes as inequities currently going on within the State. Unfortunately, he said, cabins are so often thought of as the duck shacks from Anchorage. He assured the Committee this is not what prompted this legislation.

Providing historical data, Senate President Bennett stated that, when people came to Alaska in the 1920s-1950s, they were called settlers or pioneers or trappers, and many built liveable abodes, now referred to by modern standards as "cabins". According to the Department of Natural Resources, there are about 2,000 of these cabins scattered from Barrow to Ketchikan that have been in existence for a number of years. The problem, he continued, is with the status of ownership of the land constantly changing. Early on it was territorial land, and no one cared where the cabin was built. A mining claim was filed or the ground was staked out, and the settler would get to the recording office eventually. However, in 1967, Mr. Udall put a freeze on this situation, and the concensus was that after that freeze was lifted, a settler could once again get things straightened out by filing. This has never happened, he said, but what did happen is that the State received its 104 million acres, native corporations received their 44 million acres, and the federal government kept the residual. Although this bill does not pertain to them, there have been various land swaps before those various entities, he continued. It appears that this involves numerous cabins and that, if the State would allow these people to pay the fair market price, pay for the survey, they could get their abode and one acre of land. This is the intent and what he hopes to accomplish if this legislation becomes law, he said.

Co-chairman John Sackett MOVED to report SB 269 out of Committee with individual recommendation. There being no objection, it was so ordered. CS SB 269 (Res) was REPORTED OUT with a \$102.5 fiscal note from Department of Natural Resources and a majority of those Committee members present signing a "do pass" recommendation on the Committee Report.

Alaska State Legislature

P. O. BOX 2801  
FAIRBANKS, ALASKA 99707



P. O. BOX V — STATE CAPITOL  
JUNEAU, ALASKA 99811

Senate  
Office of the President

To: House Resources Committee Members  
From: Senator Don Bennett  
Date: February 24, 1986  
Re: Senate Bill 269

Enclosed for your review you will find a copy of the Fairbanks Daily News-Miner editorial for Monday, February 24, 1986, regarding Senate Bill 269. The News-Miner states:

SB 269 is a one-time solution to a continuing problem. It would create a network of cabins in just the places where Alaskans have found them useful, make it possible to hand them down to future generations, avoid a new layer of bureaucracy, and even bring a little cash to the state. It's a good bill that should be adopted this year.

I hope you will agree.

A handwritten signature in black ink, appearing to be "D. Bennett", written over a horizontal line.

*Editorial Opinion and Comment of*

FAIRBANKS

## **Daily News - Miner**

*"Independent in All Things . . . Neutral in None"*

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

### **Good idea for cabins**

Two bills are pending in the Legislature this year relating to "trespass cabins"—one is good and the other is not.

Trespass cabins are those cabins Alaskans built on state (and federal) land during the 1960s and earlier when it was impossible to get title to public lands.

Last year, the state adopted a set of regulations which allowed the owners of such cabins on state land to get permits to use them. But the regulations were so restrictive they did little to help many users—besides creating yet another permit. You can't get a permit, for example, if you want to use your cabin for anything with an economic value, like trapping or guiding or fishing.

A far better solution is outlined in SB269. This bill, sponsored by Interior Sens. Don Bennett and Jack Coghill along with Kotzebue's Frank Ferguson, would allow the owner of a cabin built on state land before 1968 to buy an acre of land surrounding the cabin by paying fair market value plus the cost of the survey. The sale could proceed even if the land had been withdrawn for a state park or forest after 1968.

A different approach is outlined in HB561, a bill that ought not to be passed. It would create a whole new state bureaucracy to administer a system of public use cabins, which would include "cabins that were constructed on public land without proper authority and that have been or will be acquired by the state."

It took a landslide vote in favor of the Beirne Homestead Initiative—a measure thrown out by the courts that would have allowed every Alaskan to obtain some essentially free state land—to convince the state that we needed an aggressive land disposal program. But land disposal programs have not resolved the problem of these trespass cabins.

There are about a thousand statewide, and they are located in places Alaskans have found them to be useful. In more than one case, the presence of a cabin has meant life instead of death for an Alaskan stranded by weather or injuries. In a multitude of other cases, the cabins have provided comfort and shelter to Alaskans engaging in legitimate uses of the land and its resources.

The last thing we need is a bureaucracy to take care of these cabins with permits and expenses, especially when there already is a group of Alaskans willing to take care of them at their own expense if only they can get clear title to the land. If we just set up a permit system, we'll only be hemmed in with more restrictions, at a cost that could be substantial. By selling the land, the state has nothing to lose and will even come out financially ahead.

Legislators need to hear from Alaskans who support passage of SB269 which will permit the sale of an acre of land to a cabin owner. To send a free 50-word public opinion message to legislators, stop by the Legislative Information Office at 315 Barnette St. (in the back of the downtown post office building) or call the LIO at 452-4448.

SB269 is a one-time solution to a continuing problem. It would create a network of cabins in just the places where Alaskans have found them useful, make it possible to hand them down to future generations, avoid a new layer of bureaucracy, and even bring a little cash to the state. It's a good bill that should be adopted this year.

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 29, 1985

COMMISSIONER'S OFFICE  
**RECEIVED**  
MAY 1 - 1985

Honorable Arliss Sturgulewski  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

DEPARTMENT OF FISH AND GAME

Re: SB 269

Dear Senator Sturgulewski:

At the Senate Resources Committee hearing on Friday, April 26, 1985 you requested that the Attorney General's office provide you with a written opinion pertaining to SE 269. In its current form, Senate Bill 269 contains significant constitutional problems. If SB 269 is enacted into law, there is a very high probability that some individual or group would raise a judicial challenge to the measure on equal protection and possibly other constitutional grounds. In its current form, this legislation would be difficult for the State to sustain in a court of law. Our reasoning follows.

The legislation under consideration provides a means for persons who previously trespassed on State land to acquire title to the land which belongs to all the citizens of the state. Previous attempts to carry out similar policy have been viewed with skepticism by the Department of Law. For example, AS 38.05.079, which was enacted in 1979 as part of FCCSHB 66, gave trespassers a "remote cabin permit" for shelters previously built on State land. This provision of Alaska law was not enacted administratively because of potential constitutional problems. Instead, in 1984, the current administration promulgated regulations found at 11 AAC 65, to develop a cabin permit system which would phase out the existing trespass structures on State land over a period of years. This program, embodied in regulation, apparently meets the needs of individuals who used State land without authorization while avoiding the constitutional problems embodied in SB 269.

Honorable Arliss Sturgulewski  
Senator

April 29, 1985  
Page 2

The basic problem with which SB 269 runs afoul is the constitutional provision requiring that "all persons are equal and entitled to equal rights, opportunities, and protection under the law...". Article 1 Section 1 of the Alaska Constitution. SB 269 does not treat the citizens of Alaska in an equal fashion. The equal protection clause of the Alaska Constitution was "designed to protect the fragile values of a vulnerable citizenry from the overbearing concern for efficiency and efficacy that is often characterized in the most praiseworthy legislation." Isakson v. Ricky, 550 P.2d 359, 365 (1976). But, equal protection, "even under Alaska's stricter standard, does not demand perfection in classification." Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255 (1980). The Supreme Court applies a single test when weighing constitutional questions. That test is:

"flexible and dependent upon the importance of the rights involved. Based on the nature of the right, a greater or lesser burden is placed on the state to show that the classification has a fair and substantial relation to a legitimate governmental objective".

Commercial Fisheries Entry Commission v. Apokedak 606 P.2d 1255, 1264 (1980).

We think there are important rights that the citizens of Alaska each enjoy in owning State land. Article 8, Section 6 states that the "lands and interests therein... constitute the State public domain." The means used in SB 269 to give trespassers an exclusive right to land in the public domain severely strain the concept of equal protection.

Citizens who abided by the law and did not trespass on State land would not have an opportunity to procure State land, even at fair market value, as is contemplated by SB 269. Under the test articulated by the Alaska Supreme Court, it is our belief that legislation such as SB 269 would place a great burden on the State to show that the classification favoring trespassers is a fair means for effectuating a legitimate government objective. The legitimate governmental objective in ending continued trespass has been accomplished through 11 AAC 65 and has avoided the constitutional problems edemic in the current bill.

Honorable Arliss Sturgulewski  
Senator

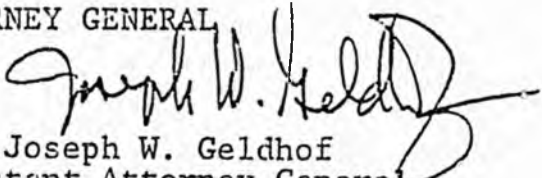
April 29, 1985  
Page 3

It is possible other attorneys may harbor a different opinion with respect to this situation and the applicability of the Alaska Supreme Court standards. We urge you to consult with the attorneys in the Legislative Affairs Agency for an additional opinion on this particular bill and concerning this matter in general.

Sincerely yours,

NORMAN C. GCRSUCH  
ATTORNEY GENERAL

By:

  
Joseph W. Geldhof  
Assistant Attorney General

JWG/alg

cc: Members of Senate Resources Committee

Commissioner Esther Wunnicke  
Department of Natural Resources

Commissioner Don Collinsworth  
Department of Fish and Game