

4222.4 SRES SUBSISTENCE BILL DRAFTS . . . (file 1) - (file 2)

1185

*Joint Conference  
Curt  
Palmer  
Bill Horn  
Under Secretary  
Fish & Wildlife  
19 - 26  
managing  
S & T*

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)

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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1 AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec 2 AS 16.05.251(a) is amended by adding new paragraphs to read:

15 (12) designating and regulating special fishing areas,  
16 including personal use areas, trophy management areas, catch-and-  
17 release areas, and children's fishing areas, and designating stocks in  
18 those areas for which special management is appropriate;

19 (13) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries.

22 \* Sec 3 AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (14) regulating sport hunts and subsistence hunts as needed  
24 for the conservation, development, and utilization of game and nongame  
25 species.

26 \* Sec 4 AS 16.05 is amended by adding new sections to read:

27 Sec. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME

28 \* The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

*Amendment  
Add new  
Section to  
fish & game  
code*

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etc*

*for I work  
done in studies  
market base*

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

*school boat  
at term  
we need to  
define*

4 (b) Consistent with sustained yield, sound management, and the  
5 maintenance of healthy fish stocks and game populations, the boards  
6 shall determine

*we will delete these  
two sections terms  
and include public  
let of sust. yield*

7 (1) whether there exists a harvestable surplus of the  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the surplus is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

*define*

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a surplus is not sufficient to accommodate all consumptive uses of the  
16 surplus, but is sufficient to accommodate subsistence uses of the  
17 surplus, then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the surplus.  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

- 26 (1) customary and direct dependence on the fish stock or  
27 game population as the mainstay of livelihood;
- 28 (2) local residency; and
- 29 (3) availability of alternative resources.

*area by area  
Buffalo hit  
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Nations  
Stallion  
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an*

(d) The boards may adopt regulations consistent with this section that authorize taking for nonsubsistence uses a stock or population identified under (a) of this section.

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

*don't endorse \*  
this section*

(f) In making allocation decisions the boards may apportion subsistence use among species, stocks, and populations that are similar and reasonably available.

*\*  
change  
all words subject  
with. subsistence*

(g) Takings authorized under this section are **subject to reasonable regulation** of **seasons**, **catch or bag limits**, and **methods and means**. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30. *WANTON WASTE PROVISIONS*

*subject to  
wanton waste*

*waiting changed  
?*

(h) Active duty military personnel, while stationed in the state for more than 30 days, are eligible to fish, hunt, or trap on military installations and facilities in the state under 10 U.S.C. 2671 to the same extent as other nonsubsistence users.

(i) The boards, after consulting with the department, shall adopt regulations defining "maintenance of healthy populations of fish and game," "sound management principles," "sustained yield," and "harvestable surplus."

**Sec. 16.05.259. ADMINISTRATIVE APPEALS.**

*pp. to go  
to Board  
ct.*

(a) The Board of Fisheries and the Board of Game, acting jointly, may establish by regulation an appeal procedure for persons aggrieved by the adoption or repeal of a subsistence or personal use regulation.

~~(b) An aggrieved person must exhaust administrative remedies before bringing a legal action challenging the adoption or repeal of a subsistence or personal use regulation.~~

\* AS 16.05 is amended by adding a new section to read:

*Handwritten notes:*  
\*  
P.../...

1 Sec. 16-05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
2 the taking of fish or game in violation of a statute or regulation, it  
3 is not a defense that the taking was done for subsistence uses.

4 \* AS 16.05.330 is amended by adding new subsections to read:

5 (a) The Board of Fisheries and the Board of Game may adopt  
6 regulations providing for the issuance and expiration of subsistence  
7 permits for areas, villages, communities, groups, or individuals as  
8 needed for authorizing, regulating and monitoring the subsistence  
9 harvest of fish and game. The boards shall adopt these regulations  
10 when the subsistence preference requires a reduction in the harvest of  
11 a fish stock or game population by nonsubsistence users.

12 (b) With the assistance of the department, the boards shall  
13 provide reasonable public notice of the following information to users  
14 of a group, community, village, or area subsistence permit:

- 15 (1) the terms of the permit;
- 16 (2) the fish stocks and game populations authorized to be  
17 taken under the permit;
- 18 (3) the subsistence use areas covered by the permit.

*Handwritten notes:*  
sections  
d, e & f  
are unnecessary

19 (c) The Board of Fisheries and the Board of Game may use village  
20 and regional corporations formed under 43 U.S.C. 1601 - 1628 (Alaska  
21 Native Claims Settlement Act) and community, postal, media, or other  
22 services appropriate for providing notice under (d) of this section.

23 (d) The commissioner shall administer subsistence permit pro-  
24 grams that may be established. The commissioner may appoint state  
25 employees or other persons to take applications and issue permits and  
26 tags. A person appointed by the commissioner may administer oaths for  
27 permit and tag applications. The commissioner or the appropriate  
28 board may require a report from persons using a permit concerning the  
29 time, manner, and place of taking fish and game, the kinds and

1 quantity taken, and other information helpful in administering the  
2 fish and game resources of the state. Except for state employees, a  
3 person appointed by the commissioner under this subsection is entitled  
4 to compensation of \$50 per year or \$1 for each permit or tag issued,  
5 whichever is greater.

6 \* ~~Sec. 7~~ AS 16.05.940(22) is amended to read:

7 (22) "subsistence fishing" means the taking of, fishing for,  
8 or possession of fish, shellfish, or other fisheries resources ~~by a~~  
9 resident domiciled in a rural area of the state for subsistence uses  
10 with gill net, seine, fish wheel, long line, or other means defined by  
11 the Board of Fisheries;

12 \* ~~Sec. 8~~ AS 16.05.940(23) is amended to read:

13 (23) "subsistence uses" means the noncommercial, customary  
14 and traditional uses [IN ALASKA] of wild, renewable resources by a  
15 resident domiciled in a rural area of the state for direct personal or  
16 family consumption as food, shelter, fuel, clothing, tools, or trans-  
17 portation, for the making and selling of handicraft articles out of  
18 nonedible by-products of fish and wildlife resources taken for per-  
19 sonal or family consumption, and for the customary trade, barter, or  
20 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
21 this paragraph, "family" means [ALL] persons related by blood, mar-  
22 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
23 hold on a permanent basis;

24 \* ~~Sec. 9~~ AS 16.05.940 is amended by adding new paragraphs to read:

25 (24) "~~domicile~~" means the ~~true and permanent home~~ of a  
26 person from which the person has no present intention of moving and to  
27 which the person intends to return whenever the person is away; domi-  
28 cile may be proved by presenting evidence of having had a permanent  
29 home in a particular location for the preceding 12 consecutive months

1 or other evidence acceptable to the boards of fisheries and game;

2 (29) "fish stock" means a species, subspecies, geographic  
3 grouping or other category of fish manageable as a unit;

4 (30) "game population" means a group of game animals of a  
5 single species or subgroup manageable as a unit;

6 (31) "rural area" means a community or area of the state in  
7 which the noncommercial, customary, and traditional taking and use of  
8 fish or game for personal or family consumption is a significant  
9 characteristic of the economy of the community or area;

10 (32) "subsistence hunting" means the taking of, hunting for,  
11 or possession of game animals by a resident domiciled in a rural area  
12 of the state for subsistence uses by means defined by the Board of  
13 Game.

14 \* Sec. 107 AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

15 \* Sec. 117 This Act takes effect June 1, 1986.

\*  
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Federal  
legislative  
history

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Skowhegan  
Anch  
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anxious*

SUBSISTENCE

BILL DRAFTS

AND

LETTERS OF

INTENT  
(FILE 2)

Offered: 2/5/86  
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

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14 \* Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:

15 (12) designating and regulating special fishing areas,  
16 including personal use areas, trophy management areas, catch-and-  
17 release areas, and children's fishing areas, and designating stocks in  
18 those areas for which special management is appropriate;

19 (13) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries.

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunts and subsistence hunts as needed  
24 for the conservation, development, and utilization of game and nongame  
25 species.

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, sound management, and the  
5 maintenance of healthy fish stocks and game populations, the boards  
6 shall determine

7 (1) whether there exists a harvestable surplus of the  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the surplus is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a surplus is not sufficient to accommodate all consumptive uses of the  
16 surplus, but is sufficient to accommodate subsistence uses of the  
17 surplus, then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the surplus.  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 (f) In making allocation decisions the boards may apportion  
8 subsistence use among species, stocks, and populations that are simi-  
9 lar and reasonably available.

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 (i) The boards, after consulting with the department, shall  
19 adopt regulations defining "maintenance of healthy populations of fish  
20 and game," "sound management principles," "sustained yield," and  
21 "harvestable surplus."

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 subsistence or personal use regulation.

26 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
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1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

2 (c) The Board of Fisheries and the Board of Game may adopt  
3 regulations providing for the issuance and expiration of subsistence  
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14 taken under the permit;

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24 permit and tag applications. The commissioner or the appropriate  
25 board may require a report from persons using a permit concerning the  
26 time, manner, and place of taking fish and game, the kinds and quanti-  
27 ty taken, and other information helpful in administering the fish and  
28 game resources of the state. Except for state employees, a person  
29 appointed by the commissioner under this subsection is entitled to

1       ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2       ~~whichever is greater.]~~

3       \* Sec. 7. AS 16.05.940(22) is amended to read:

4               (22) "subsistence fishing" means the taking of, fishing for,  
5       or possession of fish, shellfish, or other fisheries resources by a  
6       resident domiciled in a rural area of the state for subsistence uses  
7       with gill net, seine, fish wheel, long line, or other means defined by  
8       the Board of Fisheries;

9       \* Sec. 8. AS 16.05.940(23) is amended to read:

10              (23) "subsistence uses" means the noncommercial, customary  
11       and traditional uses [IN ALASKA] of wild, renewable resources by a  
12       resident domiciled in a rural area of the state for direct personal or  
13       family consumption as food, shelter, fuel, clothing, tools, or trans-  
14       portation, for the making and selling of handicraft articles out of  
15       nonedible by-products of fish and wildlife resources taken for per-  
16       sonal or family consumption, and for the customary trade, barter, or  
17       sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18       this paragraph, "family" means [ALL] persons related by blood, mar-  
19       riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20       hold on a permanent basis;

21       \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22              (28) "domicile" means the true and permanent home of a  
23       person from which the person has no present intention of moving and to  
24       which the person intends to return whenever the person is away; domi-  
25       cile may be proved by presenting evidence of having had a permanent  
26       home in a particular location for the preceding 12 consecutive months  
27       or other evidence acceptable to the boards of fisheries and game;

28              (29) "fish stock" means a species, subspecies, geographic  
29       grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

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5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

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8 or possession of game [~~animals~~] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

DEF OF - SUSTAINED YIELD  
DEF OF. PERSONAL USE FISHING

folsom lake now contains 840,000 acre-feet of water, compared to a normal level of 720,000 acre-feet at this time of year.  
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^BC-Subsistence Bill, 770

^Sturgulewski: No Big Problems With Subsistence Proposal

^By SUE CROSS=

^Associated Press Writer=

JUNEAU (AP) - The subsistence rights bill that has grown from a legislative fix for ambiguous language to a blueprint for redesigning Alaska fish and game management could pass the Senate in much the same form it's in now, the chairwoman of the Senate Resources Committee predicted Monday.

But other legislators and administrators who have worked on the measure say the Senate only increased the bill's flaws, and that simplification will be needed before it becomes law.

The Resources committee is to begin hearings on the bill (SCS CSHB288) Wednesday, and hopes to take action on it March 5, said Sen. Arliss Sturgulewski, R-Anchorage, head of the Senate Resources Committee.

The Alaska Federation of Natives and the Alaska attorney general's office have questioned whether parts of the bill are constitutional, if they meet federal standard, and if they would be unfair to subsistence hunters and fishermen.

Sturgulewski said in an interview that those doubts easily can be resolved.

"It's my feeling that a good many of these issues raised by the attorney general's office either are not real problems or they can be addressed by some minor wording changes," she said.

"I anticipate a bill very much like this one will pass (into law)."

The Senate State Affairs Committee added more than five pages of amendments to the 2 12-page bill that passed the House last session.

Among the major policy changes inserted are instructions for the Alaska fisheries and game boards to identify stocks available for subsistence use, and to giving the boards authority to apportion the stocks as they see fit.

The apportionment clause raises the ire of Don Mitchell, attorney for the Alaska Federation of Natives. He said in a Feb. 10 analysis that the clause "makes a mockery of the subsistence priority."

Mitchell said if the provision became law, the boards could, for example, shut down subsistence fishing of king salmon, the most desirable for commercial and sport fishing, and switch subsistence users to red or other less-coveted salmon species.

Sturgulewski said debate over the apportionment clause leads her to believe it will be amended.

The Senate version also calls for the fisheries and game boards to set up an appeals process, which petitioners would have to exhaust before taking a subsistence complaint to court.

Sturgulewski said that proposal would add a level of bureaucracy that is commonplace in other state programs, and one that would justify its cost by reducing the number of lawsuits filed. She said the cost has not been determined.

Jim Ayers, legislative liaison for Gov. Bill Sheffield, said the boards already hear subsistence appeals, and the attorney general's office has said any additional appeals would have to be made to the Commissioner of Fish and Game. That would be inappropriate because the commissioner only carries out policies created by the board and should not rule on its decisions, Ayers said.

No one in the commissioner's office was available to comment because Monday, President's Day, was a state holiday.

Ayers and Sturgulewski both said there are ambiguities in the bill's language that should be taken out or defined, such as what is meant by the "sound management" of fish and game required in the Senate version, and how "customary and traditional" uses should be used to determine subsistence rights.

But Ayers said that even if those points are clarified, the bill, in general, attempts too much.

"Our bill fixed what was broken. They've now taken on other issues and other discussions of problems that weren't there before they opened them up," he said.

~~Rep. Jack FULLER, D-Nome, who rallied support for the bill in the House last session, also said the Senate draft is too broad.~~

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"Our bill fixed what was broken. They've now taken on other issues and other discussions of problems that weren't there before they opened them up," he said.

Rep. Jack Fuller, D-Nome, who rallied support for the bill in the House last session, also said the Senate draft is too broad.

"The only thing they (Senators) seemed to do was garbage it up," Fuller said.

He said if such a broad bill passes the Senate, the House probably would reject it. A legislative conference committee then would have to draft a compromise measure to send to the governor.

The Department of Interior has given Alaska a June 1 deadline to enact a new subsistence law or lose control of fish and game on all federal land in the state.

Alaska has not complied with the federal Alaska National Interest Lands Conservation Act of 1980 since the state Supreme Court ruled last year that regulatory boards too narrowly limited subsistence rights to rural residents.

The ruling opened subsistence rights to urban residents, contrary to the federal requirement. Both the House and Senate bills would reinstate the rural residency requirement.

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HB 236

A new fiscal note was attached and appears in House Journal Supplement No. 62.

HB 236 was referred to the Rules Committee for placement on the calendar.

HB 252

The Finance Committee has considered HOUSE BILL NO. 252 (state retirement benefits; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 252 (State Affairs) (page 1019) and reports it back as follows: Adams (Chairman), Duncan, Larson, Pourchot, Rieger and Cotten recommend do pass. Szymanski, Ringstad, Uehling and Frank have no recommendation.

HB 252 was referred to the Rules Committee for placement on the calendar.

HFJ 288

The following letter of intent was received. The letter was duplicated and distributed to each member. HOUSE BILL NO. 288 (taking of fish and game for subsistence and personal use; effective date) appears on today's calendar.

"HOUSE RULES COMMITTEE  
LETTER OF INTENT  
FOR  
CSHB 288 (Jud)

The purpose of this bill is to authorize the Alaska Board of Fisheries and the Alaska Board of Game to adopt regulations identifying "subsistence uses" of fish stocks and game populations as the boards did from May 30, 1982 until February 22, 1985.

Pursuant to this bill the boards will limit the identification of "subsistence uses" of fish stocks and game populations to the taking of such stocks and populations by Alaska residents who are domiciled in rural communities and rural areas in which the taking of fish stocks or game populations for personal or family consumption is a significant characteristic of the economy of the community or area, as determined by the boards.

This limitation of the definition of "subsistence uses" recognizes that Alaska is unique, and unlike any of the other forty-nine states, the economy of many rural communities and rural areas in Alaska is significantly dependent upon participation by the residents of these communities in the taking of fish stocks and game populations

HB 288

for personal or family consumption. Further, the Legislature finds that the general health and welfare of these citizens is significantly tied to their participation in these activities.

The boards will be authorized to adopt regulations for identifying customary and traditional uses by Alaska residents of those rural communities and rural areas. It is the intent of the Legislature to preserve the approach to implementing the state's subsistence law embodied in 5 AAC 99.010, (as adopted by the Joint Boards of Fisheries and Game on May 30, 1982), for identifying subsistence uses on a community or area basis.

The Legislature finds that implementing the subsistence law is consistent with the intent of the definition of subsistence hunting and fishing and personal use fishing contained in House Bill 288 when criteria such as those outlined below are used to identify customary and traditional uses of the resource:

(1) a long-term, consistent pattern of use, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions;

(2) a use pattern recurring in specific seasons of each year;

(3) a use pattern consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, and conditioned by local circumstances;

(4) the consistent harvest and use of fish or game which is near, or reasonably accessible from, the user's residence;

(5) the means of handling, preparing, preserving, and storing fish or game which has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a use pattern which includes the handing down of knowledge of fishing or hunting skills, values and lore from generation to generation;

(7) a use pattern in which the hunting or fishing effort or the products of that effort are distributed or shared among others within a definable community of persons, including customary trade, barter, sharing, and gift-giving; customary trade may include limited exchanges for cash, but does not include significant commercial enterprises; a community may include specific villages or towns, with a historical preponderance of subsistence users, and encompasses

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individuals, families, or groups who in fact meet the criteria described in this subsection; and

(8) a use pattern which includes reliance for subsistence purposes upon a wide diversity of the fish and game resources of an area, and which provides substantial economic, cultural, social, and nutritional elements of the subsistence user's life.

This legislation establishes that the commercial sale of fish and game taken for personal or family consumption is prohibited, but does not preclude the sale of handicraft articles made from the non-edible by products taken for such uses. Accordingly, the Legislature intends that barter, sharing and customary trade of fish or game taken for personal or family consumption be of a non-commercial nature. This restriction however, does not apply to the existing limited sale of animal furs by subsistence users of the resource.

The bill also establishes a statutory definition of "personal use fishing." Although sport, commercial and personal use fishing are not afforded a statutory priority over each other, the inclusion of a definition of "personal use" is to indicate that the intent of the Legislature is to delegate to the Alaska Board of Fisheries adequate regulatory authority to provide all persons engaged in sport, commercial, and personal use fishing a reasonable opportunity to participate in the harvest of Alaska's fish stocks.

The Legislature recognizes that personal use of fish and wildlife is a valuable part of Alaskan life. Therefore, it is the intent of the Legislature that the Board of Fisheries provides fairly and adequately for these personal uses. For example, the Board must provide a fair and adequate allocation for the fishery at Chitina, on the Copper River, in which Fairbanks residents and other Alaskans participate using dipnets and fishwheels to harvest salmon for personal use.

/s/M.W. Miller

M.W. Miller, House Rules Chrm  
May 2, 1985"

HB 322

The Judiciary Committee has considered HOUSE BILL NO. 322 (use of information from fingerprints of members of the Alaska Bar Association) and reports it back as follows: M.M. Miller (Chairman), Sund, Gruenberg, Taylor, Pettyjohn, Phillips and Clocksin recommend do pass.

A zero fiscal note was attached.

HB 322 was referred to the Rules Committee for placement on the calendar.

representing some of the cultural, historical, and ecological diversity in the State. The information was organized in a manner to encourage the comparative exploration and analysis of tentative generalizations about fishing and hunting in Alaska.

The case studies of the sixteen communities demonstrate that many communities in Alaska are economically and socially dependent on the harvest of wild and renewable resources for local uses. Fishing and hunting activities and resource uses in certain communities are components of complex social and economic systems with particular characteristics.

A "subsistence-based socioeconomic system" was identified as one type of socioeconomic system in the State. A subsistence-based socioeconomic system is "food extractive" in nature, contrasting with economies displaying other economic bases, such as manufacturing, trade, government, finance, and defense. A subsistence-based system has several characteristics:

- (1) a "mixed economy" with mutually supportive "market" and "subsistence" sectors;
- (2) a "domestic mode of production" where production capital, land, and labor are controlled by extended, kinship-based production units;
- (3) a stable and complex "seasonal round of production activities" within the community tied to the seasonal arrival and fluctuations of fish and game resources;
- (4) substantial non-commercial networks of sharing, distribution, and exchange of food and materials;
- (5) traditional systems of land use and occupancy; and
- (6) complex systems of beliefs, knowledge, and values associated with resource uses passed on between generations as the cultural and oral traditions and customs of a social group.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

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

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

11 (7) the importance of each fishery in providing recreation-  
12 al opportunities for residents and nonresidents.

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

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

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1           sustained yield; and

2                   (2) how much of the harvestable portion is needed to pro-  
3           vide a reasonable opportunity to satisfy the subsistence uses of those  
4           stocks and populations.

5                   (c) The boards shall adopt subsistence fishing and subsistence  
6           hunting regulations for each stock and population for which a harvest-  
7           able portion is determined to exist under (b)(1) of this section. If  
8           the harvestable portion is not sufficient to accommodate all consump-  
9           tive uses of the stock or population, but is sufficient to accommodate  
10          subsistence uses of the stock or population, then nonwasteful subsis-  
11          tence uses shall be accorded a preference over other consumptive uses,  
12          and the regulations shall provide a reasonable opportunity to satisfy  
13          the subsistence uses. If the harvestable portion is sufficient to  
14          accommodate the subsistence uses of the stock or population, then the  
15          boards may provide for other consumptive uses of the remainder of the  
16          harvestable portion. If it is necessary to restrict subsistence  
17          fishing or subsistence hunting in order to assure sustained yield or  
18          continue subsistence uses, then the preference shall be limited, and  
19          the boards shall distinguish among subsistence users, by applying the  
20          following criteria:

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

23                   (2) local residency; and

24                   (3) availability of alternative resources.

25                   (d) The boards may adopt regulations consistent with this sec-  
26          tion that authorize taking for nonsubsistence uses a stock or popula-  
27          tion identified under (a) of this section.

28                   (e) Fish stocks and game populations, including bison, or  
29          portions of fish stocks and game populations, not identified under (a)

of this section may be taken only under nonsubsistence regulations.

(f) Takings authorized under this section are subject to reasonable regulation of seasons, catch or bag limits, and methods and means. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries and the Board of Game, acting jointly, may establish by regulation an appeal procedure for persons aggrieved by the adoption or repeal of a regulation.

\* Sec. 7. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

\* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

(c) The Board of Fisheries and the Board of Game may adopt regulations providing for the issuance and expiration of subsistence permits for areas, villages, communities, groups, or individuals as needed for authorizing, regulating and monitoring the subsistence harvest of fish and game. The boards shall adopt these regulations when the subsistence preference requires a reduction in the harvest of a fish stock or game population by nonsubsistence users.

\* Sec. 9. AS 16.05.940(22) is amended to read:

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

\* Sec. 10. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the noncommercial, customary

and traditional uses [IN ALASKA] of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in [FOR THE PURPOSES OF] this paragraph, "family" means [ALL] persons related by blood, marriage, or adoption, and a [ANY] person living in [WITHIN] the household on a permanent basis;

\* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

(28) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(29) "fish stock" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(30) "game population" means a group of game animals of a single species or subgroup manageable as a unit;

(31) "personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(32) "rural area" means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 13. This Act takes effect June 1, 1986.

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3/4/86

Coghill's Suggested  
Changes

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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7 subsistence and personal use; and providing for an  
8 effective date."

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10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence.

26 [in each rural ~~area~~ <sup>area</sup> identified by the boards.]

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1 sustained yield; and

2 (2) how much of the harvestable portion is needed to provide a reasonable opportunity to satisfy the subsistence <sup>NEEDS</sup> uses of those stocks and populations, ~~by~~ <sup>by</sup> Alaskans.

3 (c) The boards shall adopt subsistence fishing and subsistence hunting regulations for each stock and population for which a harvestable portion is determined to exist under (b)(1) of this section. If the harvestable portion is not sufficient to accommodate all consumptive uses <sup>NEEDS</sup> [of the stock or population], but is sufficient to accommodate subsistence <sup>NEEDS</sup> uses <sup>the reasonable opportunity to harvest</sup> [of the stock or population], then a nonwasteful subsistence <sup>NEEDS</sup> uses shall be accorded a preference over other consumptive uses [ and the regulations shall ~~provide~~ <sup>provide</sup> a reasonable opportunity to satisfy the subsistence uses. ] If the harvestable portion is sufficient to accommodate the subsistence <sup>NEEDS</sup> uses [of the stock or population], then the boards may provide for other consumptive uses of the remainder of the harvestable portion. If it is necessary to restrict <sup>AMONG PREFERRED USERS</sup> [subsistence fishing or subsistence hunting] in order to assure sustained yield or continue subsistence uses, then the preference shall be <sup>FURTHER</sup> limited, and the boards shall distinguish among subsistence users, by applying the following criteria:

- 21 (1) customary and direct dependence on the fish stock or
- 22 game population as the mainstay of livelihood;
- 23 (2) local residency; and
- 24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this section that authorize taking for nonsubsistence uses ~~of~~ <sup>of</sup> stock or population identified under (a) of this section.

26 (e) Fish stocks and game populations, or portions of fish stocks and game populations, <sup>LIKE BISON,</sup> ~~not~~ <sup>not</sup> identified under (a) of this section

*All-empting factual @ other animals fresh*

1 may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
8 appeal procedure for persons aggrieved by the adoption or repeal of a  
9 regulation.

10 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

11 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
12 the taking of fish or game in violation of a statute or regulation, it  
13 is not a defense that the taking was done for subsistence uses.

14 \* Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

15 (c) The Board of Fisheries and the Board of Game <sup>SHALL</sup> [may] adopt  
16 regulations providing for the issuance and expiration of subsistence  
17 permits for [areas, villages, ~~DE~~ communities, groups,] or [individuals as  
18 needed for authorizing, regulating and monitoring the subsistence  
19 harvest of fish and game. [ The boards shall ~~DE~~ adopt these regulations ]  
20 <sup>WHENEER A</sup> [when the] subsistence preference <sup>IS REQUIRED</sup> [requires] [a reduction ~~in the~~ harvest of  
21 a fish stock or game population by nonsubsistence users.]

22 \* Sec. 7. AS 16.05.940(22) is amended to read:

23 (22) "subsistence fishing" means the taking of, fishing for,  
24 or possession of fish, shellfish, or other fisheries resources by a  
25 resident domiciled in [a rural ~~area~~ of] the state for subsistence uses  
26 with gill net, seine, fish wheel, long line, or other means defined by  
27 the Board of Fisheries;

28 \* Sec. 8. AS 16.05.940(23) is amended to read:

29 (23) "subsistence uses" means the noncommercial, customary

1 and traditional uses [IN ALASKA] of wild, renewable resources by a  
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 8 this paragraph, "family," means [ALL] persons related by blood, mar-  
 9 riage, or adoption, and [a ~~ANY~~ person] living in [WITHIN] the house-  
 10 hold on a permanent basis;

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12 (28) "domicile" means the true and permanent home of a  
 13 person from which the person has no present intention of moving and to  
 14 which the person intends to return whenever the person is away; domi-  
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17 (29) "fish stock" means a species, subspecies, geographic  
 18 grouping or other category of fish manageable as a unit;

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 20 single species or subgroup manageable as a unit;

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 23 Alaska residents for personal use and not for sale or barter, with  
 24 gill or dip net, seine, fish wheel, long line, or other means defined  
 25 by the Board of Fisheries;

26 (32) "rural area" means a community or area of the state in  
 27 which the noncommercial, ~~customary,~~ ~~and~~ traditional use of fish or  
 28 game for personal or family consumption is a significant characteris-  
 29 tic of the economy of the community or area;

*Principal*

(32) "CUSTOMARY AND TRADITIONAL" means that there exists a history of use and an economic need.

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(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 10. AS 16.05.251('), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 11. This Act takes effect June 1, 1986.

Original sponsor: Rules/Governor

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22 resources by personal use, sport, and commercial fishermen.

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28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

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

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10 region and local area in which the fishery is located;

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24               (3) availability of alternative resources.

25               (d) The boards may adopt regulations consistent with this sec-  
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27       tion identified under (a) of this section.

28               (e) Fish stocks and game populations, including bison, or  
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\* Sec. 10. AS 16.05.940(23) is amended to read:

(23) "subsistence uses" means the noncommercial, customary

and traditional uses [IN ALASKA] of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in [FOR THE PURPOSES OF] this paragraph, "family" means [ALL] persons related by blood, marriage, or adoption, and a [ANY] person living in [WITHIN] the household on a permanent basis;

\* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

(28) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(29) "fish stock" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(30) "game population" means a group of game animals of a single species or subgroup manageable as a unit;

(31) "personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(32) "rural area" means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(33) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game.

\* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

\* Sec. 13. This Act takes effect June 1, 1986.

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2/7/86

Offered: 2/5/86  
 Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
 2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
 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 the taking of fish and game for  
 7 subsistence and personal use; and providing for an  
 8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding <sup>a</sup>new paragraph<sup>s</sup> to read:

15 ~~[(12) designating and regulating special fishing areas,~~  
 16 ~~including personal use areas, trophy management areas, catch and~~  
 17 ~~release areas, and children's fishing areas, and designating stocks in~~  
 18 ~~those areas for which special management is appropriate;]~~

19 (13) regulating commercial, sport, subsistence, and personal  
 20 use fishing as needed for the conservation, development, and utiliza-  
 21 tion of fisheries.

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunt<sup>ing</sup> and subsistence hunt<sup>ing</sup> as needed  
 24 for the conservation, development, and utilization of game [and nongame  
 25 species.]

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
 29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, [~~sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations~~] the boards  
6 shall determine

7 (1) <sup>If a portion</sup> [~~whether there exists a harvestable surplus~~] of the <sup>may be harvested</sup>  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the <sup>harvestable portion</sup> [~~surplus~~] is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able surplus is determined to exist under (b)(1) of this section. If  
15 a <sup>harvestable portion</sup> [~~surplus~~] is not sufficient to accommodate all consumptive uses of the  
16 <sup>harvestable portion</sup> [~~surplus~~] but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> [~~surplus~~] then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> [~~surplus~~].  
21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure sound management or protect future subsis-  
23 tence fishing or subsistence hunting, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

→7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 **FIX** (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 ~~[(i) The boards, after consulting with the department, shall~~  
19 ~~adopt regulations defining "maintenance of healthy populations of fish~~  
20 ~~and game," "sound management principles," "sustained yield," and~~  
21 ~~"harvestable surplus."]~~

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 ~~[subsistence or personal use]~~ regulation.

26 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

2 (c) The Board of Fisheries and the Board of Game may adopt  
3 regulations providing for the issuance and expiration of subsistence  
4 permits for areas, villages, communities, groups, or individuals as  
5 needed for authorizing, regulating and monitoring the subsistence  
6 harvest of fish and game. The boards shall adopt these regulations  
7 when the subsistence preference requires a reduction in the harvest of  
8 a fish stock or game population by nonsubsistence users.

9 ~~[(d) With the assistance of the department, the boards shall  
10 provide reasonable public notice of the following information to users  
11 of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be  
14 taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601-1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) ~~The commissioner shall administer subsistence permit pro-  
21 grams that may be established. The commissioner may appoint state  
22 employees or other persons to take applications and issue permits and  
23 tags. A person appointed by the commissioner may administer oaths for  
24 permit and tag applications. The commissioner or the appropriate  
25 board may require a report from persons using a permit concerning the  
26 time, manner, and place of taking fish and game, the kinds and quanti-  
27 ty taken, and other information helpful in administering the fish and  
28 game resources of the state. Except for state employees, a person  
29 appointed by the commissioner under this subsection is entitled to~~

1 ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2 ~~whichever is greater.]~~

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [animals] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

ADD definitions of:  
SUSTAINED YIELD  
PERSONAL USE Fishing

A M E N D M E N T

by Coghill

TO: SCS CSHB 288 (Resources) (2/26 draft)

Page 1 line 15 delete (12) insert (13)

Page 1 line 19 delete (10) insert (11)

Page 1 after line 26:

\*Sec 4 AS 16.05.258] SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

(a) The Board of Fisheries and the Board of Game shall identify fish stocks and game populations, or portions of stocks and populations, that are customarily and traditionally used for subsistence purposes in each rural area identified by the boards.] is amended by adding a new subsection to read:

(1) The Boards shall also identify fish game species that are not in a subsistence category which would include but not be limited to bison and mountain sheep.

Page 2 after line 19:

...by applying the following criteria:]

(1) household users who were domiciled in rural areas prior to January 1, 1986 shall have a priority for subsistence use.  
(sections 1, 2, and 3 should be renumbered 2, 3, and 4)

Page 5 after line 9:

\*Sec. 11. AS 16.30.010 WANTON WASTE OF BIG GAME ANIMALS AND WILD FOWL

(a) It is a class A misdemeanor for a person who kills a big game animal, a subsistence game animal, or a species of water fowl...

Definitions need to be made for the following terms: mainstay of livelihood; customary and traditional uses; method and means

*WFA 6-2880  
6-2956 Bob Blake  
344-8674  
344-5255*

A M E N D M E N T

Offered in the SENATE

By V.Fischer

TO: SCS CSHB 288(Resources) (2/26/86 draft)

Page 1, after line 17, insert a new bill section to read:

"\* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

(d) Regulations adopted under (a) of this section shall, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources for personal use and other consumptive uses.

(e) The Board of Fisheries shall establish criteria for the allocation of fishery resources among personal use and other nonsubsistence consumptive use categories. The criteria may include factors such as

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

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

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

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the

*Proposed for personal use*

state;

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

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

Renumber remaining bill sections accordingly.

COMMENTS ON 2/26/86 WORK DRAFT  
SENATE CS FOR CS FOR HB 288 (RESOURCES)

"AN ACT RELATING TO THE TAKING OF FISH AND GAME FOR SUBSISTENCE AND PERSONAL USE; AND PROVIDING FOR AN EFFECTIVE DATE"

page 1 line 23 should be amended to read:

(a) The Board of Fisheries and the Board of Game, after consulting with each respective regional fish and game council, shall identify the fish stocks and game populations,.....

page 1 line 27 should be amended to read:

(b) Consistent with sustained yield, the boards, upon consultation with each regional fish and game council, shall determine (1) what portion, if any, of the stocks and populations identified under (a) of this section can be harvested; and (2) how much of the harvestable portion is needed to [provide a] meet reasonable [opportunity to satisfy the] subsistence [uses] requirements of those stocks and populations.

move this section from line 12 p 2 to here:

(3) If this subsistence harvestable minimum population [the harvestable portion] is sufficient to accomodate the subsistence uses of the stock or population, then the boards may provide for other consumptive uses of the [remainder of the] harvestable surplus [portion].

(c) The boards shall adopt subsistence fishing and subsistence hunting regulations for each stock and population for which a subsistence harvestable minimum [portion] is determined to exist under (b) (1) of this section. If the harvestable portion is not sufficient to accommodate all consumptive uses of the stock or population, but is sufficient to accommodate subsistence uses of the stock or population, then subsistence uses shall be accorded a preference over other consumptive uses, and the regulations shall provide a reasonable opportunity to satisfy the subsistence requirements [uses]. If it is necessary to restrict.....

page 3, lines 1&2:

(f) Takings authorized under this section are subject to both reasonable subsistence regulatory standards and regulatory standards for sport and commercial purposes, which may include regulation of seasons, catch or bag limits, and methods and means.

page 3, line 25, an addition:

Permits may also be issued for subsistence taking by proxy.

16.05.258 SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME

(a) Consistent with the principle of sustained yield, the boards of fish and game shall adopt subsistence fishing and subsistence hunting regulations for each fish stock and game population for which a harvestable portion is determined to exist under (c) (1) of this section. If the harvestable portion is sufficient to accommodate all subsistence uses of the stock or population, then the Boards may provide for other consumptive uses of the remainder of the harvestable portion. If the harvestable portion is not sufficient to accommodate all consumptive uses of the stock or population the boards will first accord all reasonable subsistence uses of a stock or population their harvest requirement under (c) (3) of this section and then allocate the remainder as the board sees fit between other consumptive uses. If, under (c) (6), the boards find that the harvestable portion is not sufficient to accommodate all reasonable subsistence needs and uses of the stock or population as determined under (c) (4) of this section then subsistence uses of that stock or population will be restricted under section (d) below.

(b) Within one year of enactment of this Bill and periodically thereafter, the Boards of Fish and Game, upon consultation with each regional fish and game council and their component local advisory committees, shall identify the principal (major?) fish stocks and game populations, or portions of stocks and populations, that are customarily and traditionally used for subsistence purposes in each rural area identified by the boards.

(c) Consistent with the principle of sustained yield, the boards, in consultation with each regional council and their local committees, shall periodically determine

(1) what portion, if any, of the stocks and populations identified under (a) of this section can be harvested; and

(2) the current and anticipated subsistence needs for such fish stocks and game populations within each region; and

(3) how much of the harvestable portion is needed to meet the subsistence requirements of those stocks and populations identified under (c) (2) of this section; and

(4) a strategy for the management of these stocks and populations which will accommodate such subsistence uses and needs; and

(5) policies, standards, guidelines and regulations to authorize, regulate, monitor and implement the strategy for each stock and population for which a harvestable portion is determined to exist. These regulations shall (reflect the requirements of a subsistence way of life as lived) provide a reasonable opportunity to continue a subsistence way of life by... residents of rural Alaska. Such regulations may address seasons, catch or bag limits and methods and means of taking.

(7) The boards may adopt regulations providing for the issuance and expiration of subsistence permits for areas, villages, communities, groups, or individuals as needed for authorizing, regulating and monitoring the subsistence harvest of fish and game. The boards shall adopt these regulations when the subsistence preference under (e) of this section requires a reduction in the harvest of a stock or

population by nonsubsistence users or to provide transferrable permits for taking by proxy on behalf of physically incapacitated subsistence users.

(d) If the Boards of Fish and Game, in consultation with regional councils, finds that a harvestable portion of a stock or population exists, but that it is necessary to restrict subsistence fishing or subsistence hunting in order to assure sustained yield and/or continue subsistence uses, the appropriate board will limit subsistence taking of that stock or population. If it is necessary to limit subsistence taking of a stock or population, the boards shall distinguish among subsistence users by applying the following criteria:

- (1) customary and direct dependence on the fish stock or game population as the mainstay of livelihood;
- (2) local residency; and
- (3) available alternative resources.

(e) If the harvestable portion of a fish stock or game population is found to be sufficient to accommodate all reasonable subsistence uses of the stock or population, then the boards may provide for other consumptive uses of the remainder of the harvestable portion.

(1) The boards may adopt regulations consistent with this section that authorize taking for nonsubsistence uses a stock or population identified under (b) of this section

(2) Fish stocks or game population, or portions of stocks or populations, not identified under (b) of this section may be taken under non-subsistence regulations without first being subject to subsistence preference.

(e) Takings under this section are subject to reasonable regulations either under subsistence standards or sport/commercial standards

(f) military...

Offered: 2/5/86  
Referred: Resources and Judiciary

2/7/86  
MASTER

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)

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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

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12 use fish, subsistence fish, or predators or other categories essential  
13 for regulatory purposes;

14 \* Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:

15 ~~[(12) designating and regulating special fishing areas,~~  
16 ~~including personal use areas, trophy management areas, catch-and-~~  
17 ~~release areas, and children's fishing areas, and designating stocks in~~  
18 ~~those areas for which special management is appropriate;]~~

19 (13) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries.

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunts<sup>ing</sup> and subsistence hunts<sup>ing</sup> as needed  
24 for the conservation, development, and utilization of game<sup>ing</sup> ~~and nongame~~  
25 ~~species.]~~

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, [~~sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations~~] the boards  
6 shall determine

7 (1) <sup>If a portion of</sup> [~~whether there exists a harvestable surplus~~] of the  
8 stocks and populations identified under (a) of this section; <sup>may be harvested</sup> and

9 (2) how much of the <sup>harvestable portion</sup> [~~surplus~~] is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able <sup>portion</sup> [~~surplus~~] is determined to exist under (b)(1) of this section. If

15 <sup>the harvestable portion</sup> [~~surplus~~] is not sufficient to accommodate all consumptive uses of the

16 <sup>harvestable portion</sup> [~~surplus~~], but is sufficient to accommodate subsistence uses of the

17 <sup>harvestable portion</sup> [~~surplus~~], then subsistence uses shall be accorded a preference over

18 other consumptive uses, and the regulations shall provide a reasonable

19 opportunity to satisfy subsistence uses of the surplus, and may pro-

20 vide opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> [~~surplus~~].

21 If it is necessary to restrict subsistence fishing or subsistence

22 hunting in order to assure sound management or protect future subsis-

23 tence fishing or subsistence hunting, then the preference shall be

24 limited, and the boards shall distinguish among subsistence users, by

25 applying the following criteria:

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27 game population as the mainstay of livelihood;

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 <sup>fix or</sup>  
15 <sup>Remove</sup> (h) Active duty military personnel, while stationed in the  
16 state for more than 30 days, are eligible to fish, hunt, or trap on  
17 military installations and facilities in the state under 10 U.S.C.  
18 2671 to the same extent as other nonsubsistence users.

19 [(i) The boards, after consulting with the department, shall  
20 adopt regulations defining "maintenance of healthy populations of fish  
21 and game," "sound management principles," "sustained yield," and  
22 "harvestable surplus.]"

23 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
24 and the Board of Game, acting jointly, may establish by regulation an  
25 appeal procedure for persons aggrieved by the adoption or repeal of a  
26 ~~subsistence or personal use~~ regulation.

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is not a defense that the taking was done for subsistence uses.

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2 (c) The Board of Fisheries and the Board of Game may adopt  
3 regulations providing for the issuance and expiration of subsistence  
4 permits for areas, villages, communities, groups, or individuals as  
5 needed for authorizing, regulating and monitoring the subsistence  
6 harvest of fish and game. The boards shall adopt these regulations  
7 when the subsistence preference requires a reduction in the harvest of  
8 a fish stock or game population by nonsubsistence users.

9 ~~(d) With the assistance of the department, the boards shall~~  
10 ~~provide reasonable public notice of the following information to users~~  
11 ~~of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be~~  
14 ~~taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 ~~(e) The Board of Fisheries and the Board of Game may use village~~  
17 ~~and regional corporations formed under 43 U.S.C. 1601 - 1620 (Alaska~~  
18 ~~Native Claims Settlement Act) and community, postal, media, or other~~  
19 ~~services appropriate for providing notice under (d) of this section.~~

20 ~~(f) The commissioner shall administer subsistence permit pro-~~  
21 ~~grams that may be established. The commissioner may appoint state~~  
22 ~~employees or other persons to take applications and issue permits and~~  
23 ~~tags. A person appointed by the commissioner may administer oaths for~~  
24 ~~permit and tag applications. The commissioner or the appropriate~~  
25 ~~board may require a report from persons using a permit concerning the~~  
26 ~~time, manner, and place of taking fish and game, the kinds and quanti-~~  
27 ~~ty taken, and other information helpful in administering the fish and~~  
28 ~~game resources of the state. Except for state employees, a person~~  
29 ~~appointed by the commissioner under this subsection is entitled to~~

1 compensation of \$50 per year or \$1 for each permit or tag issued,  
2 whichever is greater.

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;..

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area;

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game animals by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

*subsections*  
*(repealing (b) and)*

\* Sec. 4. AS 16.05.251 is amended by adding new subsections to read:

(b) Regulations adopted under (a) of this section shall provide that, consistent with the provisions of ~~(b) of this section~~ *Sec 16.05, 258, resident personal use*

*use*  
~~not~~, sport, and commercial fishermen are provided a fair and reasonable opportunity to participate in the harvest of fish. The regulations shall provide that, regardless of the type of gear used in each fishery, the taking of fish by residents for personal and family consumption is a priority use of fish.

(e) In allocating access to fish among persons engaged in resident *personal use* ~~not~~, sport, and commercial fishing, the Board of Fisheries shall consider the following factors:

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

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

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

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the State of Alaska;

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

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

Sec. 5. AS 16.05.255(b) is repealed and reenacted to read:

(b) Regulations adopted under (a) of this section shall provide that, consistent with the provisions of ~~(b) of this section~~ *Sec 16.05, 258,* on a ~~harvestable~~

~~yield basis~~, the taking of game from the population by residents for personal and family consumption shall be the priority use of the harvestable *portion* ~~population~~ of the population.

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

19 (10) regulating sport hunting and subsistence hunting as  
20 needed for the conservation, development, and utilization of game.

21 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 purposes in each rural area identified by the boards.

27 (b) Consistent with sustained yield, the boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested; and

1 (2) how much of the harvestable portion is needed to pro-  
2 vide a reasonable opportunity to satisfy the subsistence uses of those  
3 stocks and populations.

4 (c) The boards shall adopt subsistence fishing and subsistence  
5 hunting regulations for each stock and population for which a harvest-  
6 able portion is determined to exist under (b)(1) of this section. If  
7 the harvestable portion is not sufficient to accommodate all consump-  
8 tive uses of the stock or population, but is sufficient to accommodate  
9 subsistence uses of the stock or population, then subsistence uses  
10 shall be accorded a preference over other consumptive uses, and the  
11 regulations shall provide a reasonable opportunity to satisfy the  
12 subsistence uses. If the harvestable portion is sufficient to accom-  
13 modate the subsistence uses of the stock or population, then the  
14 boards may provide for other consumptive uses of the remainder of the  
15 harvestable portion. If it is necessary to restrict subsistence  
16 fishing or subsistence hunting in order to assure sustained yield or  
17 continue subsistence uses, then the preference shall be limited, and  
18 the boards shall distinguish among subsistence users, by applying the  
19 following criteria:

- 20 (1) customary and direct dependence on the fish stock or  
21 game population as the mainstay of livelihood;
- 22 (2) local residency; and
- 23 (3) availability of alternative resources.

24 (d) The boards may adopt regulations consistent with this sec-  
25 tion that authorize taking for nonsubsistence uses a stock or popula-  
26 tion identified under (a) of this section.

27 (e) Fish stocks and game populations, or portions of fish  
28 stocks and game populations, not identified under (a) of this section  
29 may be taken only under nonsubsistence regulations.

1 (f) Takings authorized under this section are subject to reason-  
2 able regulation of seasons, catch or bag limits, and methods and  
3 means. Takings and uses of resources authorized under this section  
4 are subject to AS 16.05.831 and AS 16.30.

5 (g) The implementation of a subsistence preference under this  
6 section does not affect the eligibility of active duty military per-  
7 sonnel, while stationed in the state for more than 30 days, to fish,  
8 hunt, or trap on military installations and facilities in the state  
9 under 10 U.S.C. 2671.

10 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
11 and the Board of Game, acting jointly, may establish by regulation an  
12 appeal procedure for persons aggrieved by the adoption or repeal of a  
13 regulation.

14 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

15 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
16 the taking of fish or game in violation of a statute or regulation, it  
17 is not a defense that the taking was done for subsistence uses.

18 \* Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

19 (c) The Board of Fisheries and the Board of Game may adopt  
20 regulations providing for the issuance and expiration of subsistence  
21 permits for areas, villages, communities, groups, or individuals as  
22 needed for authorizing, regulating and monitoring the subsistence  
23 harvest of fish and game. The boards shall adopt these regulations  
24 when the subsistence preference requires a reduction in the harvest of  
25 a fish stock or game population by nonsubsistence users.

26 \* Sec. 7. AS 16.05.940(22) is amended to read:

27 (22) "subsistence fishing" means the taking of, fishing for,  
28 or possession of fish, shellfish, or other fisheries resources by a  
29 resident domiciled in a rural area of the state for subsistence uses

1 with gill net, seine, fish wheel, long line, or other means defined by  
2 the Board of Fisheries;

3 \* Sec. 8. AS 16.05.940(23) is amended to read:

4 (23) "subsistence uses" means the noncommercial, customary  
5 and traditional uses [IN ALASKA] of wild, renewable resources by a  
6 resident domiciled in a rural area of the state for direct personal or  
7 family consumption as food, shelter, fuel, clothing, tools, or trans-  
8 portation, for the making and selling of handicraft articles out of  
9 nonedible by-products of fish and wildlife resources taken for per-  
10 sonal or family consumption, and for the customary trade, barter, or  
11 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
12 this paragraph, "family" means [ALL] persons related by blood, mar-  
13 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
14 hold on a permanent basis;

15 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

16 (28) "domicile" means the true and permanent home of a  
17 person from which the person has no present intention of moving and to  
18 which the person intends to return whenever the person is away; domi-  
19 cile may be proved by presenting evidence of having had a permanent  
20 home in a particular location for the preceding 12 consecutive months  
21 or other evidence acceptable to the boards of fisheries and game;

22 (29) "fish stock" means a species, subspecies, geographic  
23 grouping or other category of fish manageable as a unit;

24 (30) "game population" means a group of game animals of a  
25 single species or subgroup manageable as a unit;

26 (31) "personal use fishing" means the taking, fishing for,  
27 or possession of finfish, shellfish, or other fishery resources, by  
28 Alaska residents for personal use and not for sale or barter, with  
29 gill or dip net, seine, fish wheel, long line, or other means defined

1 by the Board of Fisheries;

2 (32) "rural area" means a community or area of the state in  
3 which the noncommercial, customary, and traditional taking and use of  
4 fish or game for personal or family consumption is a significant  
5 characteristic of the economy of the community or area;

6 (33) "subsistence hunting" means the taking of, hunting for,  
7 or possession of game by a resident domiciled in a rural area of the  
8 state for subsistence uses by means defined by the Board of Game.

9 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

10 \* Sec. 11. This Act takes effect June 1, 1986.

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S.R.C.

WORK DRAFT

2/7/86

Offered: 2/5/86  
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)  
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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding <sup>a</sup>new paragraph<sup>s</sup> to read:

15 [~~(12) designating and regulating special fishing areas,~~  
16 ~~including personal use areas, trophy management areas, catch and~~  
17 ~~release areas, and children's fishing areas, and designating stocks in~~  
18 ~~those areas for which special management is appropriate;]~~

19 (13) regulating commercial, sport, subsistence, and personal  
20 use fishing as needed for the conservation, development, and utiliza-  
21 tion of fisheries.

22 \* Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunt<sup>ing</sup> and subsistence hunt<sup>ing</sup> as needed  
24 for the conservation, development, and utilization of game [and nongame-  
25 species.]

26 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the  
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in  
2 the subsistence economy and culture of the area in which they are  
3 located.

4 (b) Consistent with sustained yield, ~~[sound management, and the~~  
5 ~~maintenance of healthy fish stocks and game populations]~~ the boards  
6 shall determine

7 (1) <sup>If a portion</sup> ~~[whether there exists a harvestable surplus]~~ of the <sup>may be harvested</sup>  
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the <sup>harvestable portion</sup> ~~[surplus]~~ is needed to provide a reason-  
10 able opportunity to satisfy the subsistence uses of those stocks and  
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence  
13 hunting regulations for each stock and population for which a harvest-  
14 able <sup>portion</sup> ~~[surplus]~~ is determined to exist under (b)(1) of this section. If  
15 a <sup>harvestable portion</sup> ~~[surplus]~~ is not sufficient to accommodate all consumptive uses of the  
16 <sup>harvestable portion</sup> ~~[surplus]~~ but is sufficient to accommodate subsistence uses of the  
17 <sup>harvestable portion</sup> ~~[surplus]~~ then subsistence uses shall be accorded a preference over  
18 other consumptive uses, and the regulations shall provide a reasonable  
19 opportunity to satisfy subsistence uses of the surplus, and may pro-  
20 vide opportunities to satisfy other consumptive uses of the <sup>harvestable portion</sup> ~~[surplus]~~

21 If it is necessary to restrict subsistence fishing or subsistence  
22 hunting in order to assure <sup>sustained yield</sup> ~~[sound management]~~ or <sup>continue</sup> ~~[protect future]~~ subsis-  
23 tence <sup>uses</sup> ~~[fishing or subsistence hunting]~~, then the preference shall be  
24 limited, and the boards shall distinguish among subsistence users, by  
25 applying the following criteria:

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

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-  
2 tion that authorize taking for nonsubsistence uses a stock or popula-  
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish  
5 stocks and game populations, not identified under (a) of this section  
6 may be taken only under nonsubsistence regulations.

7 ~~[(f) In making allocation decisions the boards may apportion~~  
8 ~~subsistence use among species, stocks, and populations that are simi-~~  
9 ~~lar and reasonably available.]~~

10 (g) Takings authorized under this section are subject to reason-  
11 able regulation of seasons, catch or bag limits, and methods and  
12 means. Takings and uses of resources authorized under this section  
13 are subject to AS 16.05.831 and AS 16.30.

14 EIX (h) Active duty military personnel, while stationed in the  
15 state for more than 30 days, are eligible to fish, hunt, or trap on  
16 military installations and facilities in the state under 10 U.S.C.  
17 2671 to the same extent as other nonsubsistence users.

18 ~~[(i) The boards, after consulting with the department, shall~~  
19 ~~adopt regulations defining "maintenance of healthy populations of fish~~  
20 ~~and game," "sound management principles," "sustained yield," and~~  
21 ~~"harvestable surplus."]~~

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
23 and the Board of Game, acting jointly, may establish by regulation an  
24 appeal procedure for persons aggrieved by the adoption or repeal of a  
25 ~~[subsistence or personal use]~~ regulation.

26 \* Sec. 5. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for  
28 the taking of fish or game in violation of a statute or regulation, it  
29 is not a defense that the taking was done for subsistence uses.

1 \* Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

2 (c) The Board of Fisheries and the Board of Game may adopt  
3 regulations providing for the issuance and expiration of subsistence  
4 permits for areas, villages, communities, groups, or individuals as  
5 needed for authorizing, regulating and monitoring the subsistence  
6 harvest of fish and game. The boards shall adopt these regulations  
7 when the subsistence preference requires a reduction in the harvest of  
8 a fish stock or game population by nonsubsistence users.

9 ~~[(d) With the assistance of the department, the boards shall~~  
10 ~~provide reasonable public notice of the following information to users~~  
11 ~~of a group, community, village, or area subsistence permit:~~

12 ~~(1) the terms of the permit;~~

13 ~~(2) the fish stocks and game populations authorized to be~~  
14 ~~taken under the permit;~~

15 ~~(3) the subsistence use areas covered by the permit.~~

16 (e) The Board of Fisheries and the Board of Game may use village  
17 and regional corporations formed under 43 U.S.C. 1601--1628 (Alaska  
18 Native Claims Settlement Act) and community, postal, media, or other  
19 services appropriate for providing notice under (d) of this section.

20 (f) ~~The commissioner shall administer subsistence permit pro-~~  
21 ~~grams that may be established. The commissioner may appoint state~~  
22 ~~employees or other persons to take applications and issue permits and~~  
23 ~~tags. A person appointed by the commissioner may administer oaths for~~  
24 ~~permit and tag applications. The commissioner or the appropriate~~  
25 ~~board may require a report from persons using a permit concerning the~~  
26 ~~time, manner, and place of taking fish and game, the kinds and quanti-~~  
27 ~~ty taken, and other information helpful in administering the fish and~~  
28 ~~game resources of the state. Except for state employees, a person~~  
29 ~~appointed by the commissioner under this subsection is entitled to~~

1 ~~compensation of \$50 per year or \$1 for each permit or tag issued,~~  
2 ~~whichever is greater.]~~

3 \* Sec. 7. AS 16.05.940(22) is amended to read:

4 (22) "subsistence fishing" means the taking of, fishing for,  
5 or possession of fish, shellfish, or other fisheries resources by a  
6 resident domiciled in a rural area of the state for subsistence uses  
7 with gill net, seine, fish wheel, long line, or other means defined by  
8 the Board of Fisheries;

9 \* Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary  
11 and traditional uses [IN ALASKA] of wild, renewable resources by a  
12 resident domiciled in a rural area of the state for direct personal or  
13 family consumption as food, shelter, fuel, clothing, tools, or trans-  
14 portation, for the making and selling of handicraft articles out of  
15 nonedible by-products of fish and wildlife resources taken for per-  
16 sonal or family consumption, and for the customary trade, barter, or  
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
18 this paragraph, "family" means [ALL] persons related by blood, mar-  
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
20 hold on a permanent basis;

21 \* Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a  
23 person from which the person has no present intention of moving and to  
24 which the person intends to return whenever the person is away; domi-  
25 cile may be proved by presenting evidence of having had a permanent  
26 home in a particular location for the preceding 12 consecutive months  
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic  
29 grouping or other category of fish manageable as a unit;

1           (30) "game population" means a group of game animals of a  
2 single species or subgroup manageable as a unit;

3           (31) "rural area" means a community or area of the state in  
4 which the noncommercial, customary, and traditional taking and use of  
5 fish or game for personal or family consumption is a significant  
6 characteristic of the economy of the community or area,

7           (32) "subsistence hunting" means the taking of, hunting for,  
8 or possession of game [animals] by a resident domiciled in a rural area  
9 of the state for subsistence uses by means defined by the Board of  
10 Game.

11 \* Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 \* Sec. 11. This Act takes effect June 1, 1986.

ADD definitions of:  
SUSTAINED YIELD  
PERSONAL USE Fishing

HEADINGS TITLE 16.

Fish and Game.

CHAPTER 05.

Fish and Game Code.

ARTICLE 2.

Boards of Fisheries and Game.

Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES.

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

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

(2) establishing open and closed seasons and areas for the taking of fish;

(3) setting quotas, bag limits, harvest levels, and sex

and size limitations on the taking of fish;

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

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

(6) classifying as commercial fish, sport fish or predators or other categories essential for regulatory purposes;

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

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

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

(10) establishing seasons, areas, quotas and methods of

harvest for aquatic plants;

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

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

Sec. 16.05.255. REGULATIONS OF THE BOARD OF GAME.

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

(1) setting apart game reserve areas, refuges and sanctuaries in the water or on the land of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state;

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

(8) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) establishing the times and dates during which the issuance of game licenses, permits and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed.

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the

adoption of the regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis.

Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct

dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

(c) If the Board of Game denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the

Sec. 16.05.257. SUBSISTENCE HUNTING REGULATIONS.

(a) The Board of Game, at its regularly scheduled annual meeting and other meetings held under authority of AS 16.05.300(a), shall consider and may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence;

(2) the recommendation of the active local advisory committees for that game management unit or subunit or a portion of a unit or subunit;

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

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

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

(1) the establishment of subsistence hunting areas;

(2) the regulation of transportation methods and means to protect subsistence hunting within subsistence hunting areas, including the prohibition or limitation of pack animals, mechanized vehicles and aircraft, other than watercraft or wheeled vehicles operating on a road maintained by public funds;

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

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

(c) Regulations may not be adopted by the Board of Game under (a), (b) or (f) of this section unless, in addition to the requirements of AS 44.62.180 44.62.290, the department

(1) holds public hearings, after reasonable notice, at least 30 days before the meeting at which the regulation is to be adopted, with at least one of the hearings being held in close proximity to the area potentially affected;

(2) presents at the hearings the information provided

(3) makes the information provided for in (e) of this section available to the appropriate advisory committees and to petitioners if consideration of adoption of regulations was prompted by petitions under (a)(3) or (4) of this section; comments shall be received by the board until 10 days before any adoption of regulations.

(d) A petition submitted under (a)(3) - (4) of this section shall contain a complete description of the area requested as a subsistence area and a specification of the species within the area considered necessary for subsistence use. A petition or recommendation made under (a)(2), (3) or (4) of this section must be filed with the department at least 75 days before the meeting of the board at which the petition or recommendation is to be considered.

(e) The department shall investigate, by collecting existing data, and, when necessary, conducting new studies, every petition or recommendation made under (a)(2), (3) or (4) of this section to the extent practicable within the time available and provide the following information:

(1) the concentration of the species to be affected and carrying capacity of the area to be affected;

(2) the current hunting practices in the area, including numbers of animals taken and by what methods and means and whether the take is subsistence or recreational;

(3) the dependence of persons in the area for subsistence use of a species;

(4) the population trends of the affected fish and game in the area;

(5) whether the affected fish and game population is able to support a nonsubsistence harvest; and

(6) other information considered necessary by the section of subsistence hunting and fishing.

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

(1) the recommendation of the department, based on biological evidence;

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

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

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

(h) In this section

(1) "subsistence hunting" means the taking of game animals by a state resident for subsistence uses by means defined by the Board of Game;

(2) "subsistence hunting area" means an area in which only subsistence hunting of the affected species is permitted and which is managed for maximum food potential.

(i) The Board of Game may not make a decision denying, creating or changing a subsistence hunting area unless the decision is based on specific written findings of fact regarding all the information provided in accordance with (e) of this section.

Sec. 16.05.930. EXEMPTED ACTIVITIES.

(a) This chapter does not prevent the collection or

exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit which the department may issue and prescribe the terms thereof.

- (b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.
- (c) AS 16.05.920 does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, "animals" includes all animal life, including insects and bugs.
- (d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the Department of Fish and Game examining the probable environmental impact of the action.

- (e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.
- (f) A permit may not be required for possessing, importing or exporting mink and fox for fur farming purposes.

Sec. 16.05.940. DEFINITIONS.

In AS 16.05 - AS 16.40

(1) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other

than money if the exchange is of a limited and noncommercial nature;

(3) "a board" means either the Board of Fisheries or the Board of Game;

(4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or

possession of fish, shellfish, or other fish resources;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison, and reindeer, if they are lawfully owned;

(9) "fish" means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(13) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person's own use;

(14) "game" means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 and 16.40;

(15) "hunting" means the taking of game under AS 16.05 - AS 16.40 and the regulations adopted under those chapters;

(16) "nonresident" means a person who is not a resident

of the state;

(17) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(18) "operator" means the individual by law made responsible for the operation of the vessel;

(19) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this paragraph, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this paragraph, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this paragraph;

(20) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure

under AS 16.05 - AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(21) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(22) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(23) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the

household on a permanent basis;

(24) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(25) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(26) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(27) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

Halford Ver.  
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4/3/86 ✓

amendment

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Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Judiciary)

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 the taking of fish and game for  
7 subsistence and personal use; and providing for an  
8 effective date."

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

10 \* Section 1. AS 16.05.251(a)(6) is amended to read:

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

14 \* Sec. 2. AS 16.05.251(a) is amended by adding a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

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

6 (4) the availability of alternative fisheries resources;

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

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

11 (7) the importance of each fishery in providing recreation-  
12 al opportunities for residents and nonresidents.

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

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

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

22 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and population  
29 identified under (a) of this section can be harvested consistent wit

1 sustained yield; and

2 (2) how much of the harvestable portion is needed to pro-  
3 vide a reasonable opportunity to satisfy the subsistence uses of those  
4 stocks and populations.

5 (c) The boards shall adopt subsistence fishing and subsistence  
6 hunting regulations for each stock and population for which a harvest-  
7 able portion is determined to exist under (b)(1) of this section. If  
8 the harvestable portion is not sufficient to accommodate all consump-  
9 tive uses of the stock or population, but is sufficient to accommodate  
10 subsistence uses of the stock or population, then nonwasteful subsis-  
11 tence uses shall be accorded a preference over other consumptive uses,  
12 and the regulations shall provide a reasonable opportunity to satisfy  
13 the subsistence uses. If the harvestable portion is sufficient to  
14 accommodate the subsistence uses of the stock or population, then the  
15 boards may provide for other consumptive uses of the remainder of the  
16 harvestable portion. If it is necessary to restrict subsistence  
17 fishing or subsistence hunting in order to assure sustained yield or  
18 continue subsistence uses, then the preference shall be limited, and  
19 the boards shall distinguish among subsistence users, by applying the  
20 following criteria:

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

23 (2) local residency; and

24 (3) availability of alternative resources.

25 (d) The boards may adopt regulations consistent with this sec-  
26 tion that authorize taking for nonsubsistence uses a stock or popula-  
27 tion identified under (a) of this section.

28 (e) Fish stocks and game populations, including bison, o-  
29 portions of fish stocks and game populations, not identified under (a)