

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4259 SRES SB 245 - SB 269 139



RECORDS CERTIFICATION

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

James A. Smith
Signature of Camera Operator

11/24/89
Date

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LEGISLATIVE AFFAIRS AGENCY

DEC 23 1985

MEMORANDUM

December 20, 1985

SUBJECT: CSSB 245 (Resources) (latest draft)
: Sen. Arliss Sturgulewski
Chairman, Senate Resources Committee
FROM: Ed Hein, LAA *EH*

Enclosed is the bill draft requested by Frank Homan. I have made an additional change in section 2. AS 12. 80.050 is of questionable legal validity because it has the effect of changing a Supreme Court Rule and was not adopted by a 2/3 vote. See the Revisor's Note following the text of the section in the statutes. Consequently, I thought it best to sidestep the 2/3 voting question in this bill by avoiding language that specifically says that a photograph is admissible evidence, as the previous language of the bill appeared to do. Now the section is more clearly directed to the prosecutor, instead of to the court. The purpose of this section is to assure that gear is not held for evidence longer than necessary and I think the new language will accomplish this goal.

Hein
12/23/85 ✓

Original sponsor: Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 245 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

6 For an Act entitled: "An Act relating to the theft of commercial fishing
7 gear."

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

9 * Section 1. AS 12.55.045 is amended by adding a new subsection to
10 read:

11 (d) In a case in which the defendant is convicted of a violat'on
12 of AS 11.46.120 - 11.46.150 and in which the property is commercial
13 fishing gear as defined in AS 16.43.990, the court shall consider the
14 victim's need for, and may order, restitution that may include compen-
15 sation for loss of income.

16 * Sec. 2. AS 12.80.050 is amended by adding a new subsection to read:

17 (c) In a prosecution for a violation of AS 11.46.120 - 11.46.150
18 in which the property is commercial fishing gear as defined in AS 16.-
19 43.990, the gear shall be returned to the owner as soon as possible.
20 The prosecutor may obtain photographs of the gear for use as evidence
21 in accordance with (a) and (b) of this section.

22 * Sec. 3. AS 16.05.710 is amended by adding a new subsection to read:

23 (b) Upon a second conviction of a person for a violation of
24 AS 11.46.120 - 11.46.150 in which the property is commercial fishing
25 gear as defined in AS 16.43.990, the court shall, in addition to the
26 penalty imposed by law, order a suspension of the person's commercial
27 fishing privileges for one year. Upon a third or subsequent convic-
28 tion, the court shall, in addition to the penalty imposed by law,

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two years.

MEMORANDUM

TO: KARL OHLS
FROM: TOM PANAMAROFF *Tom Pan.*
DATE: OCTOBER 30, 1985
SUBJ: ALASKA COASTAL COMMUNITIES ALLIANCE MEETING

This memo is to inform you of what happened at the Alaska Coastal Communities Alliance meeting last night that we should be aware of.

The first item was the gear theft bills. Sue McLean, the DA from Kodiak described how the bills would be enforced. She said that the Alliance should support the restitution and the use of pictures sections of CS HB 331. She said that these are great ideas, but the section dealing with the pictures would need to pass by 2/3 majority of each house to be legally binding due to a recent court decision. I wanted to talk to her about this because I didn't understand what she was talking about, but she was in a hurry and left as soon as she was done talking about the bills.

She went on to say that section 3 of CS HB 331 would give the courts more authority in the sentencing for gear theft, but probably in practice would not do much.

The question about protecting someone who finds gear was brought up. She said that to commit the crime of theft takes 3 things; conduct, mental state (ie intent), and recklessness (ie circumstances: finding a lot of pots in one area probably means they are stored there, therefore recklessness, but finding one stray pot or one buoy on the beach is not recklessness).

SB 235 would make theft of gear a felony no matter what. She said that 99% of gear thefts are a felony anyway under statute because theft of anything valued at \$500 or more is a felony. Almost all gear theft involves property valued at more than \$500.

As far as prosecuting a kid who steals a box of fish hooks. She did not feel that anyone would prosecute the kid under SB 235 for this because it clearly is not the intent of the legislature to do this. A problem such as this may be cleared up with a letter of intent.

The Alliance was in favor of the restitution and pictures for evidence sections in CS HB 331. What they would like to do is amend CS HB 331 so that even a first time conviction of gear theft that is a felony (ie gear valued at over \$500) have a mandatory suspension of fishing privileges for a time certain. Possibly one year for first conviction, two years for second, and three years for third and subsequent convictions. They backed off from the suspension of fishing for life clause in SB 235.

Also, they backed off on the presumptive sentence. Their main priority was mandatory suspension of fishing privileges for a time certain. They felt that this was an acceptable compromise to get something passed that would at least have some teeth.

The Alliance was also concerned about Commissioner Collinsworth's plan to back away from state funded shellfish and groundfish research in hopes that the feds will come in and fund the state for the research. The Alliance feels that this strategy is too risky. Apparently this research is not built into ADF&G's base budget and is listed in increments that may not make it in the Governor's budget. They plan on being very vocal about the ADF&G budget regarding research and stock assessments.

They are also supportive of capital funding for the Kitoi Bay hatchery and the FRED division's Karluk red salmon replenishment project.

Kevin O'leary was very concerned that the NPFMC was going to bring back the halibut limited entry fight under the term "long-line limited entry", which would include halibut disguised under black cod. At the next Alliance meeting (Dec. 2) they will formulate a strategy to fight this if it is brought up at the December NPFMC meeting.

The last thing that they wanted Fred to be aware of is that they are very upset about the Southeast limited entry on black cod, tanner crab, and brown king crab. They feel that if there is L.E. on these species in S.E., then those fishermen who have a L.E. permit to fish those in S.E. should not be able to fish that species in another part of the state too. (ie if someone holds a S.E. tanner crab permit, that person must fish tanners in S.E. only, and can not move to another area, such as Kodiak, to fish tanners after the season is over in S.E.) They were pretty hot over that one.

Ole Harder suggested that the Alliance request the Governor to look into the possibility of bringing in foreign floaters for next summer's salmon season because there will be more fish than the canneries on the island can handle. This met with some grumbles from processors who were at the meeting : the Alliance did not want to take a position on this one.

That's about it. It was a very interesting meeting. Ole says "Hi."

Offered: 5/9/85
Referred: Finance

Original sponsors: Thompson, Sund
and Marrou

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 331 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST-SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the theft of commercial fishing
7 gear."

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

9 * Section 1. AS 12.55.045 is amended by adding a new subsection to
10 read:

11 (d) In a case in which the defendant is convicted of a violation
12 of AS 11.46.120 - 11.46.150 and in which the property is commercial
13 fishing gear as defined in AS 16.43.990, the court shall consider the
14 victim's need for, and may order, restitution that may include compen-
15 sation for loss of income.

16 * Sec. 2. AS 12.80.050 is amended by adding a new subsection to read:

17 (c) In a prosecution for a violation of AS 11.46.120 - 11.46.150
18 in which the property is commercial fishing gear as defined in AS 16.-
19 43.990, the gear shall be returned to the owner as soon as possible,
20 and photographs of the gear may be used as evidence in place of the
21 actual gear.

22 * Sec. 3. AS 16.05.710 is amended by adding a new subsection to read:

23 (b) Upon a second or subsequent conviction of a person for a
24 violation of AS 11.46.120 - 11.46.150 in which the property is commer-
25 cial fishing gear as defined in AS 16.43.990, the court ^{shall} may, in addi-
26 tion to the penalty imposed by law, order a suspension of the person's
27 commercial fishing privileges, ~~for one year.~~

Introduced: 3/21/85
Referred: Resources and
Judiciary

1 IN THE SENATE

BY ZHAROFF

2 SENATE BILL NO. 245

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the theft of commercial fishing
7 gear."

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

9 * Section 1. AS 11.46.130(a) is amended to read:

10 (a) A person commits the crime of theft of the second degree if
11 the person commits theft as defined in AS 11.46.100 and

12 (1) the value of the property or services is \$500 or more
13 but less than \$25,000;

14 (2) the property is a firearm or explosive; [OR]

15 (3) the property is taken from the person of another; or

16 (4) the property is commercial fishing gear.

17 * Sec. 2. AS 12.55.125(e) is amended to read:

18 (e) A defendant convicted of a class C felony may be sentenced
19 to a definite term of imprisonment of not more than five years, and
20 shall be sentenced to the following presumptive terms, subject to
21 adjustment as provided in AS 12.55.155 - 12.55.175:

22 (1) if the offense is a second felony conviction, two
23 years;

24 (2) if the offense is a third felony conviction, three
25 years;

26 (3) if the offense is a first felony conviction, and the
27 defendant knowingly directed the conduct constituting the offense at a
28 uniformed or otherwise clearly identified peace officer, fire fighter,
29 correctional officer, emergency medical technician, paramedic,

*Insert
House
bill
provisions.*

Delete

Delete

1 ambulance attendant, or other emergency responder who was engaged in
2 the performance of official duties at the time of the offense, one
3 year;

4 (4) if the offense is a first felony conviction under
5 AS 11.46.130(a)(4), one year.

6 * Sec. 3. AS 12.55.125(g) is amended to read:

7 (g) If a defendant is sentenced under (c), (d)(1), (d)(2),
8 (e)(1), (e)(2), (e)(4), or (i) of this section, except to the extent
9 permitted under AS 12.55.155 - 12.55.175,

10 (1) imprisonment may not be suspended under AS 12.55.080;

11 (2) imposition of sentence may not be suspended under AS
12 12.55.085;

13 (3) terms of imprisonment may not be otherwise reduced.

14 * Sec. 4. AS 12.55.155(a) is amended to read:

15 (a) If a defendant is convicted of an offense and is subject to
16 sentencing under AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2),
17 (e)(4), or (i) and

18 (1) the presumptive term is four years or less, the court
19 may decrease the presumptive term by an amount as great as the pre-
20 sumptive term for factors in mitigation or may increase the presump-
21 tive term up to the maximum term of imprisonment for factors in aggra-
22 vation;

23 (2) the presumptive term of imprisonment is more than four
24 years, the court may decrease the presumptive term by an amount as
25 great as 50 percent of the presumptive term for factors in mitigation
26 or may increase the presumptive term up to the maximum term of impris-
27 onment for factors in aggravation.

28 * Sec. 5. AS 16.05.710 is amended by adding a new subsection to read:

29 (b) Upon conviction of a person for a violation of

permit suspended for
first conviction.
Left open for
future convictions

1 AS 11.46.130(a)(4), the court shall, in addition to the penalty im-
2 posed by law, order a forfeiture of the commercial fishing license and
3 all limited entry permits and interim-use permits held by the person.
4 In addition, upon a first ~~or second~~ conviction for a violation of
5 AS 11.46.130(a)(4), the person is ineligible for future issuance of a
6 commercial fishing license and future issuance or transfer of a
7 limited entry permit or interim-use permit for a period of three ^{One year.}
8 years. Upon a third conviction, the person is permanently ineligible
9 for future issuance of a commercial fishing license and future issu-
10 ance or transfer of a limited entry permit or interim-use permit.

delete

third or subsequent
upon ~~second~~ conviction - 2 years

~~upon third and subsequent convictions 3 years~~

APR 27 1985

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 246

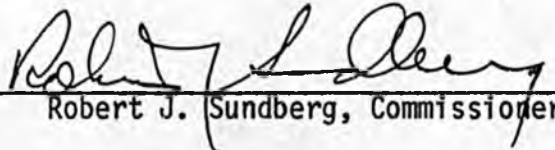
Support

SB 246 - "An Act relating to the suspension and revocation of interim-use permits and limited entry permits."

The Department of Public Safety supports Senate Bill 246 that would provide for a person who has intentionally violated or is intentionally violating a commercial fishing law or regulation to have his fishing permit suspended pending an administrative review or hearing.

This would allow for those fishermen who would intentionally violate state fishery laws to be removed from the fishery pending the administrative proceedings, thus eliminating the opportunity to continue to intentionally violate the fishery laws in total disregard for the fishery resources.

We are proposing an amendment on Page 4, Line 20 and 21 by deleting Department of Public Safety and by inserting the Limited Entry Commission as designating a Hearing Officer.



Robert J. Sundberg, Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 246
 Title: interim-use & Limited entry permits
 Sponsor: Zharoff
 Requestor: Senate Resource
 Date of Request: 4/26/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Captain J. R. Nutgrass Phone: 269-5589
 Division: Fish & Wildlife Protection Date: 4/23/85

Approved by Commissioner:  Date: 4/25/85
 Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

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

APR 11 1985

KODIAK ISLAND BOROUGH
RESOLUTION NO. 85-34-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING SENATE BILL 245 AND HOUSE BILL 331 CONCERNING THE THEFT OF COMMERCIAL FISHING GEAR.

WHEREAS, Senate Bill 245 and House Bill 331 have been introduced and provide a definition for theft of commercial fishing gear as a crime of theft in the second degree, and

WHEREAS, this crime is then punishable, upon conviction, by a sentence of a term of imprisonment of not more than five years and forfeiture of commercial fishing license and all limited entry permits, and

WHEREAS, theft of commercial fishing gear is an ongoing problem and a real detriment to the financial stability of Kodiak Island's large fishing fleet, and

WHEREAS, this problem has become even more serious with the limited amounts of fish resources available for harvest

NOW, THEREFORE, BE IT RESOLVED by the Kodiak Island Borough Assembly that Senate Bill 245 and House Bill 331 should be passed by the Legislature and signed into law, and

BE IT FURTHER RESOLVED that copies of this resolution be sent to the following individuals:

- Honorable Bill Sheffield, Governor of Alaska
- Honorable Patrick Rodey, Chairman, Senate Judiciary Committee
- Honorable Arliss Sturgulewski, Chairman, Senate Resources Committee
- Honorable M. M. Miller, Chairman, House Judiciary Committee
- Honorable Albert P. Adams, Chairman, House Finance Committee
- Honorable Fred F. Zharoff, Senator District N
- Honorable David W. Thompson, Representative District 27

PASSED AND APPROVED this 4th day of April, 1985.

KODIAK ISLAND BOROUGH

By Thomas H. Peterson
Borough Mayor

ATTEST:

By Shirley Miller, CMC
Borough Clerk



RECORDS CERTIFICATION

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

James O. Smith
Signature of Camera Operator

11/24/89
Date

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246

TO: Terry Bannister
Legal Services Division

FROM: Senator Fred F. Zharoff

DATE: March 4, 1986

RE: SB 246

I have discussed with the Senate Resources Committee the possibility of a committee substitute for Senate Bill No. 246, "An Act relating to the suspension and revocation of interim-use permits and limited entry permits", which you originally drafted. I have outlined below the changes the committee staff and I would like to see included in a draft committee substitute.

Section 1:

In line 15, ^{and 19} change "may" to "shall". We want to make the suspension of fishing privileges mandatory upon conviction for a fishing violation. We also want to make mandatory suspension a penalty for violations of certain Alaska Board of Fisheries regulations -- fishing when the season is closed, and illegal use of gear. We wish to give the judge discretion, however, ("may" instead of "shall") in cases of fishing within a closed area.

We would like to have a letter of intent prepared that if an individual knowingly or intentionally fishes within closed waters, the permit should be suspended. This would be to distinguish from the individual who could make a case that he fell asleep and floated across the line.

One other common violation is not having the permit holder present on board the vessel when engaged in commercial fishing. We would like language to the effect that upon conviction of a violation for this offense, the violator forfeits their ability to hold a permit or fishing license for the fishery in which the violation occurred for one year for first and second offenses, and for a period not to exceed three years for the third and additional offenses.

Section 2:

All of the language in Sec. 2 of SB 246 should be deleted.

Additional Sections:

If an individual participates in and becomes an accessory to illegal fishing activity, their airplane or boat (if used in the crime) would be forfeited to the state.

If you have questions or need additional information, please contact Karl Ohls in my office.

APR 23 1985

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 246
Title: Relating to Suspension and
Revocation of Fishing Permits
Sponsor: Zharoff
Requestor: Furgelewski
Date of Request: 4/17/85

FISCAL DETAIL

Agency Affected: Department of Fish & Game
Program Category Affected: Natural
Resource Management
BRU, Program or Subprogram(s) Affected: Commercial Fisheries Entry Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill provides for administrative suspension or revocation of commercial fishing permits to take effect immediately upon discovery of suspected illegal fishing activities to thus prevent continued fishing while a criminal action may be pending. The potential for an increase in the number of permit suspensions or revocations will not significantly impact the commission.

Prepared By: Christine Kelly Phone: 465-4081
Division: Commercial Fisheries Entry Commission Date: 4/22/85

Approved by Commissioner: Bruce Twonley Date: 4/22/85
Agency: Commercial Fisheries Entry Commission

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

Bannister
3/14/86

Original sponsor: Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 246 (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 commercial fishing violations."

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

8 * Section 1. AS 16.05.710 is repealed and reenacted to read:

9 Sec. 16.05.710. SUSPENSION OF LICENSES AND PERMITS. (a) Except
10 as otherwise provided in this section, upon a first or second convic-
11 tion of a person for a violation (1) of AS 16.05.440 - 16.05.720, (2)
12 of a federal or state law other than AS 16.43, for the protection of
13 the commercial fish of the state, (3) for commercial fishing with
14 unlawful gear, (4) for commercial fishing in closed waters, if the
15 person committed the violation intentionally or knowingly, or (5) for
16 commercial fishing during a closed period or season, the court shall,
17 in addition to the penalty imposed by law, suspend the commercial
18 fishing license, interim-use permit, or limited entry permit of the
19 person for one year. Upon a third conviction, the court shall, in
20 addition to the penalty imposed by law, suspend the commercial fishing
21 license, interim-use permit, or limited entry permit of the person for
22 a period not to exceed three years. In this subsection, "state law"
23 does not include a regulation.

24 (b) Except for a violation of a state regulation adopted under
25 AS 16.43, and except as otherwise provided in this subsection, upon a
26 first or second conviction of a person for a violation of a state
27 regulation for the protection of the commercial fish of the state, the

1 permit of the person for one year. Upon a third conviction, the court
2 may, in addition to the penalty imposed by law, suspend the commercial
3 fishing license, interim-use permit, or limited entry permit of the
4 person for a period not to exceed three years.

5 (c) Upon a first or second conviction of a person for commercial
6 fishing in closed waters if the person did not commit the violation
7 intentionally or knowingly, the court may, in addition to the penalty
8 imposed by law, suspend the commercial fishing license, interim-use
9 permit, or limited entry permit of the person for one year. Upon a
10 third conviction, the court may, in addition to the penalty imposed by
11 law, suspend the commercial fishing license, interim-use permit, or
12 limited entry permit of the person for a period not to exceed three
13 years.

14 (d) In this section

15 (1) "intentionally" has the meaning given in AS 11.81.-
16 900(a); and

17 (2) "knowingly" has the meaning given in AS 11.81.900(a)
18 and does not include floating into closed waters after unintentionally
19 falling asleep.

20 * Sec. 2. AS 16.05.720(c) is amended to read:

21 (c) A person who is convicted of commercial fishing in closed
22 waters, commercial fishing during a closed period or season, or com-
23 mercial fishing with unlawful gear including but not limited to
24 nets, pots, tackle, or other devices designed or employed to take fish
25 commercially, is guilty of a misdemeanor and in addition to the penal-
26 ty imposed under (a) of this section is punishable by a fine of not
27 less than the gross value to the person [FISHERMAN] of the fish found
28

1 subsection, and in addition to the license and permit suspension
2 provisions [FORFEITURE PROVISION] in AS 16.05.710, the fine may [SHALL
3 BE] not be less than three times the gross value to the person [FISH-
4 ERMAN] of the fish found on the vessel or at the fishing site, or, if
5 no fish are found on the vessel or at the fishing site, a fine of not
6 more than \$10,000.

7 * Sec. 3. AS 16.05.190 is amended by adding a new subsection to read:

8 (b) In this section, "in aid of", when applied to commercial
9 fishing violations, includes the use of a vessel or aircraft to inform
10 a person of the location of state or federal law enforcement person-
11 nel.

12 * Sec. 4. AS 16.05.195 is amended by adding a new subsection to read:

13 (g) In this section, "in aid of", when applied to commercial
14 fishing violations, includes the use of a vessel or aircraft to inform
15 a person of the location of state or federal law enforcement person-
16 nel.

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RECORDS CERTIFICATION

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

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

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Original sponsors: Shultz, Sund,
M.M.Miller and Marrou

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IN THE HOUSE

CS FOR HOUSE BILL NO. 248 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to leases on certain land formerly described as university-grant land; and providing for an effective date."

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

* Section 1. (a) A person and the assignee of a person who was a lessee of university-grant land on June 17, 1983, and whose lease is managed by the Department of Natural Resources on the effective date of this Act and is in good standing, may apply to purchase the land and request the commissioner of natural resources to

- (1) issue a quitclaim deed conveying the land; or
- (2) transfer the land under a contract of sale under

AS 38.05.065.

(b) Except as provided in (c) of this section, a lessee who holds a lease of former university-grant land under AS 38.05.070 may purchase the land for the lower of

(1) the appraised fair market value of the land under the lease as specified in Appendix F of the Settlement Agreement between the Department of Natural Resources, the Department of Revenue, the Department of Administration, and the University of Alaska and its Board of Regents as trustee for the University of Alaska as ratified in ch. 22, SLA 1983; or

(2) its appraised fair market value under the lease on June 17, 1983, as determined under AS 38.05.085(b).

(c) A lessee who holds a lease of former university-grant land that is amended under AS 38.05.085(a) may purchase the land for the lower of

1
2 (1) the appraised fair market value of the land under the lease
3 as the value has been determined under Paragraph 15 of the Settlement
4 Agreement between the Department of Natural Resources, the Department of
5 Revenue, the Department of Administration, and the University of Alaska and
6 its Board of Regents as trustee for the University of Alaska as ratified in
7 ch. 22, SLA 1983; or

8 (2) its appraised fair market value under the lease on June 17
9 1983, as determined under AS 38.05.085(b).

10 (d) A lessee who holds a lease of former university-grant land that
11 is classified as agricultural land may purchase the land under (b) or (c)
12 of this section subject to AS 38.05.321(a).

13 (e) An application to purchase under (b) and (c) of this section
14 constitutes a relinquishment of rights under the lease on

15 (1) the issuance of a quitclaim deed by the state; or

16 (2) the execution of a contract of sale under AS 38.05.065.

17 (f) Within 90 days after the effective date of this Act, the commis
18 sioner of natural resources shall advise each lessee who may have right
19 under this section of the enactment of this section.

20 (g) A lessee of former university-grant land who does not give th
21 e commissioner of natural resources notice of an intent to purchase withi
22 n 180 days after receiving the notice of rights provided for in (f) of thi
23 s section may purchase the former university-grant land for its appraise
24 d fair market value at the time the notice of an intent to purchase is given

25 (h) A purchase of the state's interest in the land under (b) or (c)
26 of this section extinguishes all rights and claims arising out of the leas
27 e against the state by a lessee.

28 (i) A lessee qualified to purchase under (b) or (c) of this sectio
29 n may tender the commissioner an amount equal to five percent of the purchas
price determined under (b)(1) or (c)(1) of this section and purchase th

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land under AS 38.05.065.

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



RECORDS CERTIFICATION

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

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

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STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

SENATE RESOURCES COMMITTEE,	4/26/85,	2:35
" "	4/29/85,	1:35
" "	5/1/85	1:35

~~Deletion in orange~~

Introduced: 4/3/85
Referred: Resources

Changes in yellow

BY BENNETT, FERGUSON
AND COGHILL

1 IN THE SENATE

2 SENATE BILL NO. 269

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. On the application of a person who possesses a cabin on
10 state land on the effective date of this Act, the commissioner of natural
11 resources shall sell not to exceed one acre of state land occupied by the
12 cabin if the cabin had been erected on the land before January 1, ¹⁹⁶⁸ ~~1980~~.

13 The state land shall be sold for the fair market value of the land on
14 ~~January 1, 1980~~ as determined by the commissioner. The applicant shall pay
15 costs of surveying the land. If the cabin is located on a waterfront, the
16 commissioner shall reserve an easement not to exceed 20 feet wide above the
17 mean higher high water line. If the cabin is located in land that has been
18 withdrawn under AS 16 or AS 41 since January 1, 1980, the land shall be
19 sold notwithstanding its withdrawal. The commissioner may not establish
20 restrictions on use of the cabin or on future transfers of the land sold
21 under this section.

22 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-

23 10.070(c).

16 | Refuges - c"
41 | AS 16 areas | and the land was

Franklin could name cabin /
Franklin allow any Alaskan lands to be filed on by
year sub + sub.

~~CONFIDENTIAL~~
CHANGES IN YELLOW

Offered: 5/2/85
Referred: Finance

Original sponsors: Bennett, Ferguson
and Coghill

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 269 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to cabins on state land; and provid-
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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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10 land on the effective date of this Act, the commissioner of natural
11 resources shall sell not to exceed one acre of state land occupied by the
12 cabin if the cabin had been erected on the land before January 1, 1968 and
13 if the land was open to entry under applicable state or federal law at the
14 time the cabin was erected. The state land shall be sold for the fair
15 market value of the land as determined by the commissioner. The applicant
16 shall pay costs of surveying the land. If the cabin is located on a
17 waterfront, the commissioner shall reserve an easement not to exceed 20
18 feet wide above the mean high water line. If the cabin is located in land
19 that has been withdrawn under AS 16 or AS 41 since January 1, 1968, the
20 land shall be sold notwithstanding its withdrawal. The commissioner may
21 not establish restrictions on use of the cabin or on future transfers of
22 the land sold under this section.

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

*Pre land - freeze
mark 1000*

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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

April 29, 1985

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

Re: SB 269

Dear Senator Sturgulewski:

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

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

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

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

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

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

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

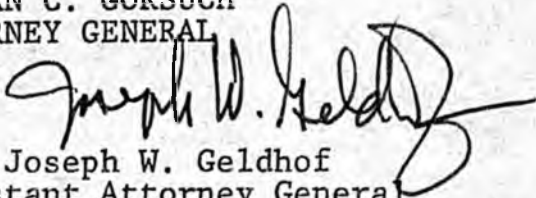
Honorable Arliss Sturgulewski
Senator

April 29, 1985
Page 3

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

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Joseph W. Geldhof
Assistant Attorney General

JWG/glg

cc: Members of Senate Resources Committee

Commissioner Esther Wunnicke
Department of Natural Resources

Commissioner Don Collinsworth
Department of Fish and Game

Alaska State Legislature

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



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

Senate Committee on Resources

M E M O R A N D U M

April 26, 1985

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff *MSK*

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

This bill would allow anyone who has a cabin on state land on the effective date of this bill to purchase up to one acre of that land at fair market value, if the cabin was erected prior to January 1, 1980.

Attached is a letter form the Department of Natural Resources in which Commissioner Wunnicke says she believes the bill has constitutional problems. Also attached is a letter form the Bristol Bay Coastal Resource Service Area opposing the bill and a letter from Lynn D. Meyer supporting the bill.

A fiscal note was requested from the department but it has not arrived yet. The fiscal note will be at the meeting.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

April 25, 1985

The Honorable Arliss Sturgulewski
Chair, Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Sturgulewski:

I am writing to provide comments on SB 269 (cabins on state land).

The department has attempted to address the issue of unauthorized cabins on state land by enacting regulations that allow the issuance of a temporary, non-transferable permit to a cabin holder. The permit may be renewed through the lifetime of the permittee but the improvements must be removed or revert to state ownership at the permit's expiration.

In adopting this approach to the management of unauthorized cabins on state land, I considered adopting an approach that is represented by Senator Bennett's proposal. I saw a considerable challenge to the coherent management of state lands and resources and recognized the concerns of many Alaskans who own cabins on public lands. The problem deserved attention and action.

In the course of my review of the situation, however, I discerned that it could be a violation of the constitutional and statutory conditions for equal protection and public process to convey public land or cabins on public land to persons who built them without authorization. I also saw a fairness problem: would it be equitable to other Alaskans (some of whom might have attempted to gain authorization to build but were denied) to make a retroactive determination that unauthorized cabins would suddenly be given legal recognition? I also noted that providing an assured right to purchase the cabin or land in some cases would be in conflict with the State's best interest, because the land is needed for other purposes from settlement to timber harvest to habitat protection.

April 25, 1985

I understand the intent of the bill and I am all too aware of the frustration that some cabinholders feel, but I believe that the department has already taken steps to address the issue in a way that also protects the public purpose.

If the Committee needs a briefing on our cabin permitting programs, our preference rights programs for persons holding valid state or federal permits or leases, or our land disposal programs, I would be pleased to offer any staff assistance you may request.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: Senator Don Bennett
Representative John Ringstad

TO: ALL SENATORS

FROM: JOHN PIERSON, 1603 TWINING, ANCHORAGE, AK 99504,
338-5381

SUBJECT: SB 269, PURCHASE OF CABINS ON STATE LAND

I AM IN FAVOR OF THIS BILL AND I WISH THE SENATE WOULD CONSIDER
PASSING THE BILL.

*
* DELIVER TO: JPOM
*
*
* ORIGINAL
* SENT: 02/24/86 TIME: 15:28
* FROM: LIOSOL
* SUBJECT: FOM
* PRINT DATE: 02/24/86 TIME: 15:28
*

61

Frank

FOM

TO ALL SENATORS AND REPRESENTATIVES
FROM SUSAN SEAFORD
BOX 1214
HOMER, AK 99603
235-7485

RE: SB 269-PURCHASE OF STATE LANDS
MESSAGE: I AM IN FULL SUPPORT OF SB 269 AND REQUEST YOU VOTE IN
FAVOR OF THIS LEGISLATION. EOM

* FROM: ANNIE NEUBAUER *
* SUBJECT: POM/FAIRBANKS *
* PRINT DATE: 02/17/86 TIME: 16:13 *
* *

TO: ALL LEGISLATORS

FROM: BILL HAGAR, OUTDOOR COUNCIL,
431 GAFFNEY RD., FAIRBANKS 99701

PHONE: 452-6295 HOME 457-1357 WORK

RE: SB269 PURCHASE OF CABINS ON STATE LAND

Kid

PLEASE PASS SB269 AS PRESENTED.

TO: ALL MEMBERS OF THE HOUSE
ALL MEMBERS OF THE SENATE

FROM: KEN FANNING ✓
BOX 80929
FAIRBANKS, ALASKA 99708

PHONE: 479-3648

RE: SB 269 - PURCHASE OF CABINS ON STATE LAND

MSG: THIS ESSENTIAL LEGISLATION WILL ALLOW ALASKANS FROM ALL WALKS OF LIFE TO ENJOY LEGAL TITLE TO CABINS WHICH ARE ALL READY BUILT. LEGAL PROTECTION FOR THESE EXISTING FACILITIES WILL HELP ENSURE THE PROPERTY AND OUR REMOTE AREAS ARE GIVEN APPROPRIATE STEWARDSHIP.

MAY 02 1985

April 29, 1985
PO Box 2176
Palmer, AK 99645

Senator Sturgulewski
Resources Committee
State Senate
Pouch V
Juneau, AK 99811

Dear Senator Sturgulewski,

I oppose SB 269, a bill directing the state to sell private trespass cabins on state lands to the trespassers.

The selling or permitting of cabins or duck shacks built illegally on state lands to the persons responsible for the trespass is poor policy for two reasons.

First, the practice would in many cases reward those who squatted on disposable state lands with ownership of the land, to the detriment of the many people who may have applied to the state for the parcel in a land lottery. Members of the public desiring a piece of disposable state land would have been smarter to have broken the law by constructing a cabin, than to have waited in line to apply on an equal basis with other members of the public.

Secondly, I object to the state disposing of public lands for the exclusive use of a select few. As a member of the public I own a share in the state's lands. I use some of these lands myself and I want the privilege of using any of them in the future. Senate bill 269 would infringe on my use of these state lands by creating private, exclusive inholdings. Upon creation of the inholdings, I and the rest of the public would become trespassers if we were to continue using the land.

Sincerely,

Mike Bronson
Mike Bronson

APR 29 1985

Gerene R. Olson
1824 Bowdoin Circle
Anchorage, Alaska 99508

April 25, 1985

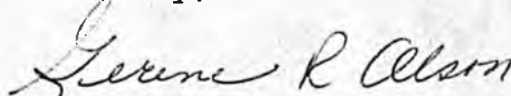
Honorable Arliss Sturgulewski
Alaska Senate
Senate Resources Committee
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Re: SB 269 relating to cabins on State land

Dear Senator Sturgulewski:

In regard to the above-referenced Senate Bill 269, I am opposed to selling land at fair market value on January 1, 1980. Other State land is sold at current appraised value; thus, it seems to me that people who were essentially squatters on State lands should not be treated differently. If the land is to be sold to them at all, it should be sold on current appraised value.

Sincerely,



Gerene R. Olson

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

MAY 07 1985

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

May 6, 1985

The Honorable Jan Faiks
Chair, Senate Finance Committee
Pouch V
Juneau, AK 99811

Dear Senator Faiks:

I am writing with comments on SB 269 (cabins on state land), which was amended in the Resources Committee hearing on Wednesday and moved on to the Finance Committee.

The amended bill

Senator Halford's proposed amendments would markedly improve the bill.

As I stated in an April 25 letter to Senator Sturgulewski, I recognize that some long-time Alaskans who built cabins on open federal land many years ago believe that their tenancy should lead to a preference for the purchase of state land. I also believe, however, that the State must be very careful not to reward knowing unauthorized use of state lands by mandating a preference right to a class of cabinholders, particularly at less than current fair market value.

Senator Halford's amendments focus the preference on cabinholders who entered open land prior to Interior Secretary Udall's 1967 "land freeze" in Alaska, and require that the purchase be at current market value. We support these amendments and would suggest several others (attached) to clarify the intent of the bill and to prevent the sale of lands where land and resource management conflicts exist.

Existing cabin programs

The department has several programs that provide for cabin owners on state land

First, the department leases land competitively for the long term under AS 38.05.070(c). The provisions of AS 38.05.102 allow a lessee preference to purchase land at the termination of the lease.

Additionally the Department disposes of some lands under preference right statutes in AS 38.05.035(b). There are several varieties of preference rights that the commissioner may issue; as Senator Halford and my staff indicated, the preference right program has not been very active in recent years but our regional offices are making a concerted effort to clear up the backlogs of applications from the past. The adjudication of preference rights can be expensive and time-consuming, but the department is committed to acting on the applications as expeditiously as possible, within our existing land disposals budget.

New trapping cabins are permitted under AS 38.95 and the department generally supports HB 281 (Shultz) which would create a new mechanism for the permitting of trapping cabins already in use.

Ten-year negotiated leases are available under AS 38.05.070 (b). Noncompetitive leases may be issued to prequalified bidders under AS 38.05.075(f).

The State also can issue 25-year remote cabin permits under AS 38.05.079, although this program is not implemented yet.

Under regulations adopted last summer (attached), the department issues personal use cabin permits to persons who own a cabin on state land. I spent a great deal of time in the preparation of these regulations because I wanted to be certain that the State provided equitably for the use of existing cabins on state land without giving preferential land ownership rights. Owning over 80 million acres with various resource values important to Alaskans, the State must take care not to allow or sanctify indiscriminate, unauthorized use of its lands. Land sales and cabin use are needed and appropriate on much of the public domain, but they should be planned openly a consultation with all interested members of the public. It is simply unfair to sell parcels of land to persons who have used land without authorization while other persons are required to participate in land offering programs. And it would create a firestorm of protest from today's landowners and residents who live near state lands if open entry leading to disposal were permitted today.

Fiscal note

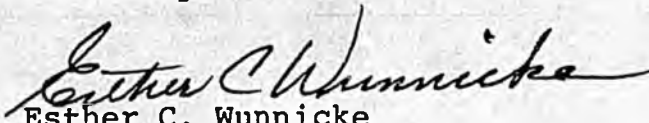
With Senator Halford's amendments, and our proposals, the Department will be able to reduce its fiscal note by about one-half. However, it is important for the Legislature to

recognize that the proposed cabin program amounts to a new land disposal program. If not funded separately, it will take a large amount of funding away from our existing land disposals, which are discretionary. It also will prevent the processing of other pending preference rights.

Summary position

Based on information from the Attorney General, the Department remains concerned with the constitutionality of the proposed bill, and with the attached amendments wishes to see the bill improved so that there is some protection of the public's interest. We do not support the bill because we believe we have already taken the steps to resolve the issue of concern. If the bill is passed and signed into law, we will comply with legislative intent; however, if it is not workable, equitable, and constitutional, we may recommend that it be vetoed.

Sincerely,


Esther C. Wunnicke
Commissioner

Attachments

cc: w/attachments -
Senator Don Bennett
Senator Jack Coghill
Senator Frank Ferguson
Senator Arliss Sturgulewski

DNR AMENDMENT ONE

CSSB 269 (Res)

Explanation

This amendment will allow the commissioner a small measure of flexibility in conveying cabin parcels. This flexibility will be necessary where 1) a third-party interest has already been created on the state land, for instance on a grazing lease, land offering, or municipal entitlement conveyance; 2) an action such as mining claims or entitlement application has had the effect of segregating the surface estate from the open public domain; or 3) the land has extraordinary resource values or attributes that militate against its transfer - such as land within a proposed major development site or a known highly critical habitat or recreational site.

Under the proposed amendment, the burden of proof will clearly be on the State to indicate that the application conflicts with land and resource management programs.

Amendment

At line 10, after "Act", insert:

and unless land or resource management conflicts exist

DNR AMENDMENT TWO

CSSB 269 (Res)

Explanation

This amendment will clarify that the applicant must conduct survey within a time certain.

Amendment

At line 16, after "shall", insert:

survey the land within five years and

DNR AMENDMENT THREE

CSSB 269 (Res)

Explanation

The amendment will clarify the waterfront easement language in the bill.

Amendment

At lines 16-17, delete "cabin is located on a waterfront" and insert:

application includes waterfrontage

Also, at line 18, insert before "mean":

ordinary or

DNR AMENDMENT FOUR

CSSB 269 (Res)

Explanation

The amendment will prevent inappropriate uses such as subdivision or commercial use of cabin parcels where these activities should be curtailed. In some cases (for instance, in refuges and parks) such activities would be inconsistent with past use of the parcel and with current management of surrounding lands.

Amendment

At line 20, before "the", insert:

Except where land or resource management concerns exist,

DNR proposed amendments
5/3/85 (see att. explanations)

Offered: 5/2/85
Referred: Finance

Original sponsors: Bennett, Ferguson
and Coghill

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

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11 resources shall sell not to exceed one acre of state land occupied by the
12 cabin if the cabin had been erected on the land before January 1, 1968 and
13 if the land was open to entry under applicable state or federal law at the
14 time the cabin was erected. The state land shall be sold for the fair
15 market value of the land as determined by the commissioner. The applicant
② → 16 survey the land within five years and shall pay costs of surveying the land. If the application includes waterfrontage ~~cabin is located on a~~
③ → 17 ~~waterfront~~, the commissioner shall reserve an easement not to exceed 20
18 feet wide above ordinary or the mean high water line. If the cabin is located in land
19 that has been withdrawn under AS 16 or AS 41 since January 1, 1968, the
④ 20 Except where land or resource management concerns exist land shall be sold notwithstanding its withdrawal. The commissioner may
21 not establish restrictions on use of the cabin or on future transfers of
22 the land sold under this section.

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



Coastal Resource Service Area

P.O. Box 189, Dillingham, Alaska 99576
(907) 842-5257 - 842-5258

April 22, 1985

Senator Arliss Sturgulewski
Senate Resources Committee
Room 508 Capitol
Juneau, Alaska 99811

RE: Senate Bill 269

Dear Senator Sturgulewski:

The Bristol Bay Coastal Resource Service Area (CRSA) Board appreciates the opportunity to comment on the above referenced bill. The CRSA Board is responsible for the development and adoption of a coastal management program for the Bristol Bay region. This program was unanimously adopted by the Alaska Coastal Policy Council (CPC) on February 6, 1985. The locally elected CRSA Board also follows all legislation that may influence the case of land and water in Bristol Bay.

The CRSA Board recognizes that this is a very emotional issue for some, particularly the much-publicized duck shackers. This law, though, will apply to all of Alaska, and its affects on Bristol Bay could be major. Trepass cabins in the past have been used as commercial fishing lodges, an exploding industry in the region. The extremely large land area of Bristol Bay has not been inventoried for the purposes of locating cabins. Thus, a very broad law such as SB 269, and particularly given some of its provisions, would have detrimental impacts.

The Board opposes SB 269 and reasons for this follow:

The Department of Natural Resources spent a significant amount of time addressing this problem last year. The DNR held public hearings on draft regulations for personal use cabins and recently released the final regulations under 11 AAC 65.010. The CRSA Board participated in the review of these regulations and is of the opinion that they are the proper mechanism for dealing with the issue. Implicit in the Board's support of the regulations is the need for greater enforcement by DNR in the rural areas.

enator Arliss Sturgulewski
April 22, 1985
Page Two

The Board strongly opposes the creation of any private inholdings within state parks (AS 41), sanctuaries and critical habitat areas (AS 16), which this bill would do. These areas were designated because of their outstanding natural and cultural values and are protected for the benefit of all Alaskans. Moreover, the Board respects the right of the state to promulgate reasonable regulations on the use of land and water within these specially-designated units.

The CRSA Board recognizes the desire of those who wish to have a small piece of the Alaskan wilderness to live on and enjoy. The DNR operates a number of land disposal programs in areas all around the state which fill this need. Those who wish to own their land should use that system.

The Board's basis premise is that those individuals who built trespass cabins on state land should not be rewarded with ownership, particularly the unconstrained type that would result from passage of SB 269. The previously mentioned DNR regulations provide a more-than-equitable compromise in regard to this issue.

Thank you for taking the time to review this correspondence.

Sincerely,

Tim Hostetler (SLF)

Tim Hostetler
Director
Bristol Bay CRSA Board

cc: Senator Fred Zharoff
Rep. Adelheid Herrmann

TH/pr

Box 333
Douglas,
Alaska, 99824

Dear Senator

In regards to Senate
Bill No. 269 -

We bought and have
occupied 43 cabin sites at
Taku Harbor for a period
in excess of eighteen (18)
years.

We believe that we
qualify in all respects
for the benefits stated
in Senate Bill No. 269.

The cabins at
Taku Harbor were
the old bunk
house quarters
for the cannery
workers.

The cannery
was in operation
in the early
1900's. In the



early 1940's, the cannery
was closed and torn
down.

The bunk house cabins,
that we own, have been
sold several times. We
purchased them about
eighteen years ago.

We have occupied them
every since.

If we must pay for them
again, we will do so, as
well as having them
surveyed to meet your
requirements.

We have been in Alaska
for forty three (43)
years. We have
never chosen any
land in the
lottery sales.

We would
appreciate any
application for
applying for
this land as



stated in Senate Bill
No. 269.

Sincerely,
Lynn D. Meyer
Lynn D. Meyer.

P.S. At present we are in
Seattle, where my
husband is seriously
ill, and receiving
treatment for cancer.
Otherwise, we would come
and talk to you personally.
Please see what you
can do for us.

Thanks
Lynn D. Meyer
Box 333
Douglas
Alaska
99824.



cc: Senator Bill Ray
Senate Resource Cmte Members
House Resource Cmte Members
Rep. Mike Miller, Rep. Jim Duncan

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 269
Title: Cabins on State Land

Sponsor: Bennett
Requestor: Senate Finance
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:
Land and Water Management; Information and
Records

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		87.5	380.5	438.5	438.5	438.5
200 TRAVEL		3.0	40.0	40.0	40.0	40.0
300 CONTRACTUAL		6.0	50.0	50.0	50.0	50.0
400 SUPPLIES		2.0	6.0	6.0	6.0	6.0
500 EQUIPMENT		4.0	12.0	12.0	12.0	12.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		102.5	488.5	546.5	546.5	546.5
CAPITAL						
REVENUE				300.0	300.0	300.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		102.5	488.5	546.5	546.5	546.5
FEDERAL FUNDS						
OTHER						
TOTAL		102.5	488.5	546.5	546.5	546.5

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

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

Because this would amount to a major new land disposal program, it will require full administrative support in regional offices and contract administration. Annual costs will include adjudication/survey and appraisal review/planning, etc.

Prepared By: DTS/DLWM/Commissioner's Office Phone: 465-2400
Division: _____ Date: 4/25/85

Approved by Commissioner: Ned Fongshan Date: 4/25/85
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

FISCAL NOTE ANALYSIS
SB 269
DEPARTMENT OF NATURAL RESOURCES

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

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

YEAR ONE -

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

YEAR TWO -

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

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

YEAR THREE -

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

YEARS FOUR TO TEN -

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

LINE ITEM EXPLANATIONS - SB 269

FY 86

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

FY 87

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

FY 88-94/5

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

MAY 03 1985

Odin E. Brudie
14320 Sabine St.
Anchorage, AK 99516
(907) 345-0525

5-1-85

Senator Arliss Sturgulewski
Chair--Resources Committee
Pouch V
Juneau, AK 99811

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


Dear Senator,

SB 269 proposes to sell to those fortunate individuals who trespassed on state land prior to 1980 the acre of land on which they have committed the crime.

I apologize for the strong words but I would never have placed a cabin on land that was not my own. Please don't ask me to break any laws in order to benefit from future legislation.

Thank you for listening.

Yours, respectfully


Odin E. Brudie
Anchorage

cc: Senator Fahrenkamp
Senator Eliason
Senator V. Fischer
Senator Zharoff
Senator Halford