

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7006 HOUSE JUDICIARY

INTRODUCTION OF BILLS (Senate)

SB 35 (cont'd)

to find out who owns the premises, and notify the owner in writing, at the last address listed on the municipal assessment role, and at any other address known to the peace officer, of the arrest.

—Rewrites AS 09.45.070 (Code of Civil Procedure. Action for Forcible Entry or Detention) to allow a person who owns a premises to maintain an action to recover the possession of the premises when a forcible entry has been made; when an entry is made in a peaceable manner and the possession is held by force; or if illegal activity involving alcoholic beverages, controlled substances, or imitation controlled substances is the basis for termination of the tenancy.

Note: the section currently provides that the person who is entitled to the premises can maintain an action to recover possession when a forcible entry is made upon a premises, or when an entry is made in a peaceable manner and the possession is held by force.

Changes the meaning of "unlawful holding by force" under AS 09.45.070 to mean "...when the tenant or person in possession of a premises fails or refuses to pay the rent due on the lease or agreement ... or deliver up the possession of the premises for more than five [10] days after demand made in writing for the possession;..." (underlined language added to current law, bracketed language deleted).

—Changes requirements for the notice to quit a premises under AS 09.45.100 (Requisites of Notice to Quit) so that the notice can be sent by registered or certified mail, and an additional three days will be added to the five days' notice if the tenant refuses to pay the rent, or to the required number of days notice if notice to quit is given for a reason other than those defined as "unlawful holding by force" (current law says the notice can be "...sent by registered or certified mail, in which case an additional three days shall be added to the 10 days.")

—Amends AS 09.45.130 (Action Against Persons Paying Rent in Advance) by adding a new subsection. AS 09.45.130 says that the notice to vacate a premises does not apply to a tenant until the period has expired for which the tenant has paid rent in advance. To authorize an action against a tenant who has paid in advance, notice has to be given at least 10 days before the date the rent is due again in case of a month-to-month tenancy, or at least three days before in the case of a week-to-week tenancy. The new subsection added by this bill says that the provisions of AS 09.45.130 outlined above do not apply to an action against a tenant when the tenant is arrested for illegal activity involving a controlled substance or for forcible entry.

—Amends the Uniform Residential Landlord and Tenant Act (AS 34.03) by adding a new subsection relating to tenant responsibilities (AS 34.03.120) to require the tenant not knowingly engage at the premises in an illegal activity involving alcoholic beverages, controlled substances, or imitation controlled substances, or knowingly permit others in the premises to engage in those illegal activities.

Amends section relating to noncompliance with a rental agreement by failure to pay rent (AS 34.03.220) by allowing the landlord to terminate the tenancy if the rent is not paid within five days after written notice is given by the landlord (currently the tenant has ten days after being given written notice).

Adds a new section to the Uniform Residential Landlord and Tenant Act (AS 34.03) that relates to illegal drug or alcohol activity on the premises that will allow the landlord to terminate the rental agreement for such action. The landlord will have to give the five day notice (as required in paragraph above), and must return all prepaid rent and security deposits.

INTRODUCTION OF BILLS (Senate)

SB 35 (cont'd)

If enacted, the bill becomes law 90 days after it is signed by the Governor.

Introduced January 21, 1991 and referred to Community and Regional Affairs; Judiciary.

Appropriation (special) (Permanent Fund)

SENATE BILL NO. 36, by Senator UEHLING, Pearce. Makes a special appropriation in the amount of \$500,000,000 from the general fund to the principal of the Permanent Fund.

If enacted, the bill becomes law the day after it is signed by the Governor.

Introduced January 21, 1991 and referred to Finance.

Remote Construction Sites (food and housing for construction workers at)

SENATE BILL NO. 37, by Senator MENARD. Adds a new section to AS 36.90 (Public Contracts. Miscellaneous Provisions) to require an employer or contractor to provide food and housing to an employee working on a public construction project at a remote construction site. The housing must meet safety and health standards for housing set out in the Standards for Occupational and Industrial Structures. The employer or contractor cannot consider the cost of the food and housing in setting wages or in meeting wage requirements under AS 23.10.065 (Minimum Wages) and AS 36.05 (Public Contracts. Wages and Hours of Labor).

An employer or contractor will be exempt from the food and housing requirements if they provide transportation to and from the remote site on a daily basis that provides access to adequate commercially-available housing; takes no more than 30 minutes from the departure point to the worksite; and meets applicable transportation safety standards. These requirements will be considered a part of every contract for hire for a public construction project in the state.

Defines "remote" as "...a work site that is either more than 50 road miles or inaccessible by two-wheel-drive vehicles from a place that has adequate, commercially-available food and housing...."

If enacted, the bill becomes law the day after it is signed by the Governor.

Introduced January 21, 1991 and referred to Labor and Commerce; Transportation; Finance.

Lawful Hunting, Fishing or Trapping (obstruction or hindrance of)

SENATE BILL NO. 38, by Senator FRANK, Sturgulewski, Pearce. Adds new sections to the Fish and Game Code (AS 16.05) to prohibit a person from obstructing or hindering another person's lawful hunting, fishing, or trapping by intentionally altering the feasibility of taking fish or game; creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the fish or game; or tampering with the personal property of another intended for use in taking

COMMITTEE REPORTS (Senate)

SB 32 (cont'd)

The Senate State Affairs Substitute adds language to allow a nurse who was employed at a juvenile correctional institution in the Public Employees' Retirement System before the effective date of this Act to convert the credited service for that position to credited service as a peace officer by claiming the service before being appointed to retirement (the bill now covers youth counselors, unit leaders, superintendents, or nurses who worked in a juvenile correctional institution).

Longevity Bonus (absences from state)

SENATE BILL NO. 34, (see page 21). Reported back to the Senate February 8, 1991 by State Affairs recommending SB 34 be replaced with a State Affairs Substitute, and as follows: Rodey (Chair) and Pourchot recommend it do pass; Duncan has no recommendation. To Finance.

As rewritten by the State Affairs Substitute, a recipient who has not qualified to receive at least eight bonuses in the last year due to absences from the state, or who is absent for a continuous period that exceeds 135 days, will not be allowed to receive bonuses for 12 months and will be disqualified from the program, but can reapply at the end of the 12-month period. The original bill said a person who was absent from the state for a continuous period exceeding 165 days could not receive bonuses for 12 months and would be disqualified from the program. Current law sets the time period a person may be gone at 90 days.

Landlord/Tenant Responsibilities & Remedies

SENATE BILL NO. 35, (see page 21). Reported back to the Senate February 6, 1991 by Community and Regional Affairs recommending SB 35 do pass. Concurring: Frank (Chair), Zharoff, Sturgulewski. To Judiciary.

On February 8 Senator Halford added his name as a co-sponsor.

Appropriation (supplemental) (DOTPF/maintenance, fuel costs/storm damage)

SPON. SUBSTITUTE FOR SENATE BILL NO. 41, (see page 26). Reported back to the Senate February 8, 1991 by Transportation recommending SS SB 41 be replaced with a Transportation Substitute, and that it do pass. Concurring: Menard (Chair), Jones and Pearce. To Finance.

The Transportation Substitute raises the total amount of the appropriation to \$16,773,539 (was \$7,608,000), and makes the following appropriations to the Department of Transportation and Public Facilities:

-\$2,908,100 for maintenance of class 3 roads (unchanged);

-\$2,800,000 for marine vessel operations and overhaul (was \$2,500,000);

-\$2,200,000 for maintenance of rural airports (unchanged);

-Adds a new section appropriating \$4,160,139 to the Alaska Marine Highway System for fuel price increases (\$1,918,275); per diem increases (\$303,000); increase to employee benefits and

COMMITTEE REPORTS (Senate)

SB 7 (cont'd)

If enacted, the bill becomes law July 1, 1991.

Capital Punishment (advisory vote on)

SENATE BILL NO. 13, (see pages 8;173). Reported back to the Senate March 13, 1991 by Judiciary recommending SB 13 do pass. Concurring: Halford (Chair); Frank and Rodey. Not concurring: Adams signed "do not pass." Collins has no recommendation. Senator Eliason stated that the bill will have an additional referral to the Finance Committee. To Finance.

Commercial Fishing Loans (limited entry permits pledged as collateral for)

SENATE BILL NO. 26, (see page 17). Reported back to the Senate March 14, 1991 by Labor and Commerce recommending SB 26 be replaced with a Labor and Commerce Substitute, and that it do pass. Concurring: Pearce (Chair), Eliason, Collins, and Halford. To Finance.

The Senate Labor and Commerce Committee Substitute removes section 2 of the original bill, which amended AS 16.10.335(d) (Fisheries and Fishing Regulations. Default and Foreclosure) to allow the commissioner of fish and game to waive any of the time limits placed on the debtor to respond to the notice of default, if requested by the debtor, and if the debtor showed good cause.

Landlord/Tenant Responsibilities & Remedies

SENATE BILL NO. 35, (see pages 21; 170). Reported back to the Senate March 13, 1991 by Judiciary recommending SB 35 be replaced with a Senate Judiciary Committee Substitute, and that it do pass with a Letter of Intent. To Rules. The letter provides:

Omission of other criminal behavior or activities
not addressed in this bill should not be construed
as acceptable behavior by tenants.

The Senate Judiciary Committee Substitute:

—Amends AS 04.21 (Alcoholic Beverages. General Provisions) and AS 17.30 (Food and Drugs. Controlled Substances) by adding new language that will require a peace officer who arrests a person for illegal activity involving alcoholic beverages or controlled substances on a premises the officer believes the person does not own, to make a reasonable attempt to find out who owns the premises, and notify the owner in person or in writing, at the last address listed on the municipal assessment role if the premises are located within a municipality that levies and collects a property tax. If an address is not available, notice of the arrest can be sent to the property owner at any other address known to the peace officer.

—Changes the meaning of "unlawful holding by force" under AS 09.45.090 to mean "...when the tenant or person in possession of a premises (A) fails or refuses to pay within five days the rent due on the lease or agreement ... or fails to deliver up the possession of the premises within five [for 10] days after demand made in writing for the possession;..." (underlined language added to current law, bracketed language deleted). For premises to which the Uniform Residential

COMMITTEE REPORTS (Senate)

SB 35 (cont'd)

Landlord and Tenant Act applies, it will be a case of unlawful holding by force when a tenant has not paid the rent, and fails to pay the rent within ten days after being notified in writing by the landlord. It will also be a case of unlawful holding by force if a tenant fails to dispose of garbage and waste from a dwelling unit in a clean and safe manner, or knowingly engages in an illegal activity involving alcoholic beverages or controlled substances, and after a notice to quit is served, the tenant fails or refuses to leave the premises within five days.

Adds further language to provide that it will be a case of unlawful holding by force if, after notice has been given to quit the premises, a person continues in the possession of the premises against a condition specified in the lease or rental agreement. It will also be a case of unlawful holding by force if the tenant continues in possession of the premises after receipt of an order of abatement under AS 09.50.210(a) (Civil Code. Actions Where State a Party. Abatement of Lewd Houses. Order of Abatement).

—Changes requirements for the notice to quit a premises under AS 09.45.100 (Civil Code. Actions Relating to Real Property. Requisites of Notice to Quit). Will require a notice to quit to be in writing, and be served upon the tenant or person in possession of the property by being delivered, left at the premises in the case of absence from the premises, or sent by registered or certified mail. Note: current law says the notice *can* be sent by registered or certified mail (it doesn't *have* to be sent by registered or certified mail, as it will under the amendment). If the notice is sent by mail, an additional three days will be added to the five days' notice if the tenant fails or refuses to pay the rent due. An additional three days will be added to the five days' notice if the tenant or person in possession of the premises fails or refuses deliver up the possession of the premises. If the notice is given by mail, an additional three days notice will be added, if notice to quit is given for a reason other than unlawful holding by force.

—Adds a new section to AS 09.45 (Civil Code. Actions Relating to Real Property) relating to a court order. If, after a trial, the court finds and enters judgment against a tenant or person in possession, the court will have to enter an order to vacate directed to the tenant and, at the request of the person recovering possession of the premises, at the same time or at a later date, can issue a writ of assistance to a peace officer to secure the officer's assistance in serving and enforcing the order to vacate.

Adds a new section relating to an action against a tenant who occupies a premises for which an order of abatement has been entered. In such an action, a certified copy of the order will be prima facie evidence of unlawful holding of the premises by force by a person who remains on the premises.

—Amends AS 09.50.170 (Actions Where State a Party. Abatement of Places Used for Immoral Act) by specifying which activities constitute a nuisance, and can be enjoined and abated (current law provides that lewdness, assignation, or prostitution or any other immoral act constitutes a nuisance). The bill states that prostitution, or an illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance constitutes a nuisance and can be enjoined and abated.

—Adds a new section to AS 09.50 to provide that in an action brought under AS 09.50.170(a) (Abatement of Places Used for Immoral Act), the court can consider evidence of reputation within a community to prove the existence of a nuisance.

—Amends AS 09.50.210 (Actions Where State a Party. Order of Abatement) to require the court, if it finds and enters judgment that a nuisance exists, to enter an order of abatement. The order of abatement shall direct termination of the lease or rental agreement; the removal from the

COMMITTEE REPORTS (Senate)

SB 35 (cont'd)

building or place of the fixtures, furniture, and movable property used in the nuisance and their sale; the closing of the building or place against its use for any purpose for one year unless sooner released.

Current law says upon judgment that a nuisance exists, an order of abatement shall be entered directing the removal from the building or place of the fixtures, furniture, and movable property used in the nuisance and their sale; the closing of the building or place against its use for any purpose for one year unless sooner released.

—Amends AS 09.50.230 (Actions Where State a Party. Release of Premises to Owner) to allow the court to order premises that were abated under AS 09.50.210 (outlined in paragraphs above) delivered to the owner, and can cancel the order of abatement if the owner of the premises has not been guilty of contempt in the proceedings; appears and pays all costs, fees, and allowances that are a lien on the premises; and files a bond with sureties approved by the court in an amount determined by the court to the effect that the owner will abate the nuisance that exists at the building or place and prevent the nuisance from being established within a period of one year thereafter. A cancellation of the order of abatement will not affect a termination of a lease or rental agreement under the order.

—Amends the Uniform Residential Landlord and Tenant Act (AS 34.03) by adding a new subsection relating to tenant responsibilities (AS 34.03.120) to prohibit the tenant from knowingly engaging in an illegal activity involving alcoholic beverages, controlled substances, or imitation controlled substances at the premises, or knowingly permitting others in the premises to engage in those illegal activities.

—Amends section relating to noncompliance with a rental agreement by failure to pay rent (AS 34.03.220) by allowing the landlord to terminate the tenancy if the rent is not paid within five days after written notice is given by the landlord (currently the tenant has ten days after being given written notice).

Adds a new subsection to AS 34.03.220 that says an order of abatement entered by a court terminates a rental agreement on the premises subject to the order of abatement.

—Adds a new section to AS 34.05 (Property. Agricultural and Personal Property) relating to illegal activities in nonresidential premises. In a rented premises other than those to which the provisions of the Uniform Residential Landlord and Tenant Act apply, the tenant cannot knowingly engage in an illegal activity involving alcoholic beverages, controlled substances, or imitation controlled substances, or knowingly permit others in the premises to do so. If such activities are taking place, a person can seek relief under AS 09.50.170 - 09.50.240 (Abatement of Lewd Houses). An order of abatement entered by a court terminates the rental agreement.

Appropriation
(supplemental)
(DOT/PF road main-
tenance, etc.)

SS SENATE BILL NO. 41, (see pages 26; 170). Reported back to the Senate March 13, 1991 by Finance recommending SS SB 41 be replaced with a Senate Finance Committee Substitute, and that it do pass. Concurring: Pourchot and Kerttula (Co-Chairs), Uehling, Hoffman, Adams, and Duncan. Not concurring: Shultz has no recommendation. To Rules.

The Senate Finance Substitute completely rewrites the bill. As rewritten, the bill appropriates

BILLS AND RESOLUTIONS PASSED BY THE SENATE

CSSB 7 (FIN) (cont'd)

bined elementary and secondary instructional units are determined under the following table:

ADM	No. Instructional Units
1 — 10	2
11 — 20	2 + ((ADM-10)/5)
21 — 60	4 + ((ADM-20)/8)
61 — 120	9 + ((ADM-60)/12)
121 — 525	14 + ((ADM-120)/15)

(b) For funding communities that are not included under (a) of this section,

(1) instructional units for elementary students are determined by the formula:

units = $15 + ((ADM-200)/17)$, where ADM is the number of students in average daily membership in grades kindergarten through 6;

(2) instructional units for secondary students are determined by the formula:

units = $18 + ((ADM-200)/13)$, where ADM is the number of students in average daily membership in grades 7 through 12.

The Senate Finance version also changes the effective date to July 1, 1992 (was 1991).

On May 1, 1991 the Senate Finance Substitute was adopted, and the bill passed the Senate, 18-1-1. Nay: Halford. Absent: Fahrenkamp. The effective date clause was adopted.

Landlord/Tenant

Responsibilities & Remedies

CS SENATE BILL NO. 35 (JUD), (see pages 21; 170; 421). On May 3, 1991 the Senate Judiciary Committee Substitute was adopted (see page 421). The Judiciary Committee Letter of Intent was adopted (see page 421), and the bill passed the Senate, 17-0-3. Absent: Collins, Fahrenkamp and Kerttula.

State Aid for Health Facilities

CS SENATE BILL NO. 67 (FIN), (see pages 42; 173; 359). Reported back to the Senate May 1, 1991 by Finance recommending SB 67 be replaced with a Senate Finance Committee Substitute, and that it do pass. Concurring: Pourchot and Kerttula (Co-Chairs), Hoffman, Duncan and Adams. Not concurring: Shultz and Uehling have no recommendation. To Rules.

The Senate Finance Substitute relates to state aid for health facilities (the previous versions related to state aid for *nonprofit* health facilities). The Finance Substitute also makes the following changes:

—Changes language relating to the membership of the Health Facilities Review Board to include a representative of the office of management and budget in the Office of the Governor (instead of "a member of the general public"), and adds a new subsection to read: "(b) To the extent possible and except for the board members described under (a)(4) and (7) of this section, the board members must be representative of all areas of the state." Subsection (a)(4) is the Dept. of Health and Social Services representative, and (a)(7) is the OMB representative.

—Adds new language that says the primary criteria for establish priorities among the

STATE OF ALASKA
THE LEGISLATURE

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

Mary Van Nimwegen

HJUD 1991-92

House Labor & Commerce 5/14/91
House Labor & Commerce 5/20/91

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JUSE COMMITTEE REPORT

(7) Date Referred: May 13, 1991 FURTHER REFERRALS: Finance

Date of Committee Action: 5-16-91

The JUDICIARY Committee considered: CSSB 38(JUD)am

CS FOR SENATE BILL NO. 38 (JUDICIARY) am INTERFERENCE WITH HUNTING/FISHING

"An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping."

RECOMMENDATIONS:
 be replaced with HCS CSSB 38 (Jud) the same title
 a new title

- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____ fiscal note(s) _____

zero fiscal note _____ zero fiscal note(s) Fish & Game 2/11/91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Terry Masten</i>					
<i>Kevin P. ...</i>	✓				
<i>Mark ...</i>	X				
<i>...</i>	✓				
<i>...</i>	✓	<i>[Signature]</i>		✓	
<i>...</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

Bill Version: SB 38

(S) Publish Date: 2/11/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: 1/30/91 Department Affected: Fish and Game
 Title: Obstruction or hindrance of lawful hunting, fishing, trapping BRU: Division of Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Frank
 Requestor: _____ COMPONENT SERIAL NO.

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

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
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	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No FY 91 impact

ANALYSIS: (Attach) Changes in <u>CS SB 38</u> <u>Frank</u> have no fiscal impact. This fiscal note is appropriate. <u>3/1/91</u> date <u>WB</u> Comte Aide (initial)	Changes in <u>CS SB 38</u> <u>(RES)</u> have no fiscal impact. This fiscal note is appropriate. <u>2/8/91</u> date <u>PT</u> Comte Aide (initial)
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Prepared By: Warren W. Wiley Phone: 465-4100

Division: Commissioner's Office Date: 1/30/91

Approved by Commissioner: Warren W. Wiley

Agency: Fish and Game Date: 1/30/91

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Wildlife Conservation	BILL NUMBER SB 38	SPONSOR Senator Frank
SHORT TITLE OF BILL Obstruction or hindrance of lawful hunting, fishing, or trapping			
DEPARTMENT POSITION Support			
PREPARED BY Warren W. Wiley	DATE 1/30/91	COMMISSIONER'S SIGNATURE <i>Warren W. Wiley</i>	DATE 1/30/91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunters
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

SB 38 would prohibit the harassment of persons legally engaged in hunting, fishing, or trapping, and by inference, the disturbance of equipment used in hunting, fishing, and trapping. Similar legislation was vetoed by Governor Sheffield in 1983 and 1984.

ANALYSIS OF BILL/PROGRAM EFFECTS

This legislation would have no fiscal impact on the Division of Wildlife Conservation. With the increased activity of anti-trapping and hunting advocate in Alaska, this law could be helpful in protecting the privileges of those legally pursuing consumptive use of wildlife resource. 35 other states have such laws.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 38

Revision Date: 1/30/91 Department Affected: Fish and Game
 Title: Obstruction or hindrance of BRU: Division of Wildlife Conservation
lawful hunting, fishing, trapping Component: Wildlife Conservation
 Sponsor: Senator Frank
 Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
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	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No FY 91 impact

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Warren W. Wiley Phone: 465-4100
 Division: Commissioner's Office Date: 1/30/91
 Approved by Commissioner: *Warren W. Wiley*
 Agency: Fish and Game Date: 1/30/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 38

Revision Date: _____ Department Affected: Public Safety
 Title: An Act relating to the obstruction or hindrance of lawful hunting BRU: Fish & Wildlife Protection
 Sponsor: Senator Frank, et. al. Component: Enforcement
 Requestor: Senate Resources

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact 0

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact is anticipated.

Prepared by: Captain Conrad G. Seibel Phone: 269-5509
 Division: Fish & Wildlife Protection Date: 1-31-91
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton
 Agency: Department of Public Safety Date: 2/5/91

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

STEVE FRANK
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Alaska State Legislature



Senate

MEMBER
Finance Committee
Resources Committee
Legislative Council
Special Committee on Banking &
Economic Development

VICE-CHAIR
Community & Regional
Affairs Committee

TO: Representative Dave Donley, Chairman
House Judiciary Committee

FROM:  Senator Steve Frank

RE: SB 38 - Obstruction or hindrance of hunting, fishing, trapping.

DATE: May 13, 1991

SB 38, known as the "hunter harassment" bill, would prohibit the **intentional** obstruction or hindrance of lawful hunting, fishing or trapping. Similar legislation has already been enacted in 39 of the 50 states with Wyoming being the most recent to join the ranks.

Anti-hunting and animal rights groups have a clear record of intentional obstruction of hunting including literature which encourages such action and gives specific examples of harassment methods. While not yet a rampant problem in Alaska, there **are** reported cases in this state including an organized disruption of seal harvests on the Pribilof Islands. At their 1989 Subsistence Conference sponsored by the Alaska Federation of Natives and RurAICAP, hunter harassment was specifically identified as a threat to subsistence that can no longer be overlooked and so it is critical that we act now to prevent further obstruction efforts.

SB 38 will not provide a preference for hunting, fishing or trapping over other outdoor uses, as has been previously argued. On the contrary, a photographer, hiker, camper, or any other person in the field will not be subject to prosecution just by virtue of being in the same area as a hunter and causing some sort of unintentional disruption. It has also been argued that this bill duplicates existing statute. As is indicated in the attached memorandum from Legal Services, "There does not seem to be any existing crime that prohibits or addresses acts intended to alter the feasibility of taking fish or game by another person."

This proposal enjoys the support of the NRA, the AFN, the Eskimo Walrus Commission, the Alaska Outdoor Council, the Alaska Bowhunters Association, and the Alaska Trappers Association. I would appreciate your support as well for the passage of Senate Bill 38.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

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May 14, 1991

The Honorable Dave Donley, Chair
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: HCS CSSB 38 (Res)

Dear Representative Donley:

Following our testimony before the House Judiciary Committee on May 13, 1991, you have inquired whether any of the provisions of HCS CSSB 38 (Res) violate the "common use" clause of the Alaska Constitution (Article VIII, section 3). HCS CSSB 38 (Res) makes it a misdemeanor offense for a person to intentionally obstruct or hinder another's lawful hunting, fishing, or trapping by either altering the feasibility of that person taking the fish or game or by creating a visual, aural, olfactory, or physical stimulus to alter the behavior of the fish or game that the other person is attempting to take.

Article VIII, section 3, of the Alaska Constitution provides that "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." As the Alaska Supreme Court noted in *Owsichek v. State*, 763 P.2d 488, 493 (Alaska 1988), this constitutional provision is unique to Alaska, and was not modeled on any other state constitution.

The natural resources committee of the Alaska Constitutional Convention discussed article VIII, section 3, as follows:

Game fish, wildlife, fisheries and water are recognized as belonging to the state so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law.... [O]nce an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition within the law.

Report of the Constitutional Convention Committee on Resources (Committee Proposal No. 8), Commentary on Article on State Lands and Natural Resources, section 3, December 16, 1955, reported in 6 Alaska Constitutional Convention Proceedings, Appendix 5 at 83.

In accordance with the commentary set out above, once the wildlife has been taken "in compliance with law," it is the property of the hunter or fisherman. Any interference at that point would be prohibited by existing law. See AS 11.46.484 et seq. (criminal mischief). These same laws prohibit a person from interfering with the property of a hunter or fisherman. Other laws prohibit assaultive-type conduct. See, e.g., AS 11.41.200 -.230. Finally, there would be no constitutional issue raised by a law that made it a crime for a person to "intentionally obstruct or hinder another person's lawful hunting, fishing, or trapping" by conduct directed at the person engaged in the hunting, fishing, or trapping activity.

The issue raised by HCS CSSB 38 (Res) is whether it violates the common use provision of the constitution to prohibit a person from interacting with fish or wildlife still in its natural state when that interaction interferes with another person's hunting, fishing, or trapping (e.g., scaring a deer about to be shot by a hunter). A litigant could argue that, until the wildlife has been taken by the hunter or fisherman, and thus becomes private property, the wildlife belongs to the state or, in essence, to all persons. As such, the person who wants to frighten the animal is as entitled to do so as the person who wants to hunt or trap the animal.

The Alaska Supreme Court, however, has not addressed the common use clause in this context. Instead, it has ruled that the clause prohibits monopolies, exclusive grants, and special privileges, with respect to these resources. See, e.g., *McDowell v. State*, 785 P.2d 1 (Alaska 1989); *Owsichek v. State*, 763 P.2d 488 (Alaska 1988). The court has observed that, "in guaranteeing people 'common use' of fish, wildlife and water resources, the framers of the constitution clearly did not intend to prohibit all regulation of the use of these resources." *Owsichek v. State*, 763 P.2d at 492. Indeed, article VIII, section 4, of the Alaska Constitution specifically provides that fish and wildlife "shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses."

Under these circumstances, it does not appear to us that HCS CSSB 38 (Res.) violates the common use clause of article VIII, section 3, of the Alaska Constitution.

The Honorable Dave Donley

May 14, 1991
Page 3

If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

DIVISION OF LEGAL SERVICES

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Mail Stop 3101

MEMORANDUM

May 15, 1991

SUBJECT: Allocations between consumptive and nonconsumptive uses of fish and wildlife and the common use section (HCS CSSB 38(Resources))

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: George Utermohle, *GU*
Legislative Counsel

This memorandum is in response to the query of Laurie Otto of your staff as to whether the common use section of the Constitution of the State of Alaska permits the state to protect consumptive uses of fish and wildlife at the expense of nonconsumptive uses.

The common use section states:

COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use. (Article VIII, sec. 3.)

The purpose of the common use section is to exclude any privileged status for any person in the use of natural resources subject to the control of the state. 6 Proceedings of the Alaska Constitutional Convention 84 (Dec. 16, 1955). The common use section imposes on the state a trust duty to manage fish, wildlife, and water for the benefit of all of the people. Owsichek v. State, 763 P.2d 488, 495 (Alaska 1988). The common use section together with other provisions of Article VIII reflect anti-monopoly and anti-exclusionist values. State v. Ostrosky, 667 P.2d 1184, 1191 (Alaska 1983).

The common use section protects the right of the people to use the fish and wildlife resources of the state by prohibiting restrictions on the people's ability to use those resources as a member of a user group. The common use section has been applied to prohibit the creation of exclusive rights that limited or barred access to particular user groups: common use section prohibits exclusive guiding areas which were used

to exclude other guides from those areas and to limit competition among guides (Owsichek); common use section prohibited a rural resident preference for subsistence uses that excluded urban residents from participating in subsistence activities (McDowell v. State, 785 P.2d 1 (Alaska 1989)).

The common use section does not prevent allocation of resources between user groups. The allocation of fish and wildlife resources is authorized under the sustained yield section^{1/} of the Alaska Constitution. McDowell, 758 P.2d at 7-8. The state may divide the available resources among competing user groups and subuser groups; this would include allocations between consumptive and nonconsumptive users. State v. Hebert, 803 P.2d 863 (Alaska 1990). The state may provide for differential treatment of separate user groups. Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 904 (Alaska 1981). The state does not have to provide a user group access to a particular fish or wildlife resource just because a competing user group is allowed to utilize that resource. Id. Thus the state may prefer one user group over another.

In the context of HCS CSSB 38 (Resources), the common use section of the constitution does not prevent the state from enacting a law that protects consumptive users of fish and wildlife resources even though such protection is not extended to nonconsumptive users of those resources. The issue posed here is a matter of equal protection. Under equal protection analysis the weight of the constitutional interest at stake must be determined, the purposes served by the challenged statute must be determined, and the state's interest in the particular means chosen to further its goals must be evaluated. The interest of a nonconsumptive user of fish and wildlife to be free from obstruction or hindrance in their use of fish and wildlife on the same basis as a consumptive user is not a fundamental right and probably is an interest entitled to a lower level of protection under Alaska's constitutional analysis, though article VIII, sec. 17 may require more stringent review of statutes affecting a person's use of natural resources. The purposes served by the statute must be at least an important state purpose in cases involving the use of the state's natural resources. The protection of hunters, fishermen, and trappers from obstruction or hindrance of their lawful activities is at least an important state interest given the importance that the state constitution gives to the use of state resources. The final step in the analysis involves a consideration of the closeness of the relationship between the state purpose and the means chosen to achieve the purpose. The means chosen by the state to protect consumptive users from obstruction or hindrance of their activities bears a reasonable relationship to the purpose and thus is probably constitutional.

^{1/} Article VIII, sec. 4, Constitution of the State of Alaska

SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Representative Dave Donley

May 15, 1991

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Because the interest of the nonconsumptive users does not rise to the level of fundamental right the closeness of the fit between the purpose and the means chosen to achieve the purpose does not have to be precise. There may be some over- or under-inclusiveness. In this case the state has some latitude to address the problems facing consumptive users without addressing the problems of nonconsumptive users. The state does not have to address the whole problem of harassment of all users of natural resources at one time. The state may address the problem one part at a time. Because the state does not have to address the whole issue at once, the provisions of HCS CSSB 38 (Resources) probably are not violative of the equal protection rights of nonconsumptive users of fish and wildlife to be free from harassment on the same basis as consumptive users.

If I may be of further assistance, please advise.

GU:mi

91-103.mai

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MEMORANDUM

May 15, 1991

SUBJECT: Is HCS CSSB 38 (Resources) overbroad?

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to the query of Laurie Otto of your staff, as to whether, under the holding of Fardig v. Municipality of Anchorage, 803 P.2d 879 (Alaska App. 1990), HCS CSSB 38 (Resources) is overbroad.

In Fardig, the Alaska Court of Appeals struck down a municipal trespass ordinance because the ordinance did not state with specificity under what circumstances a person could be ordered to leave public property.^{1/} Fardig challenged the constitutionality of the trespass ordinance on the ground that it was overbroad and as a consequence infringed upon her First Amendment freedoms. In reaching its decision the court relied on two cases: Grody v. State, 278 N.E.2d 280 (Ind. 1972) and Perry Education v. Perry Local Educators' Association, 74 L.Ed.2d 794 (1983).

In Grody, the Indiana court struck down a trespass statute that allowed a school official to ask any person to leave school grounds for any reason or for no reason. The statute was not confined to suppressing activities that interfered with the orderly use of school grounds. Since the school official could ask a person to leave solely because the person was engaging in expressive conduct even though the conduct may be clearly protected by the First Amendment, the court found the statute overbroad and a prior restraint of First Amendment activities.

^{1/} The municipal ordinance at issue before the court provided that it was unlawful for a person to commit a trespass upon public or private property without consent of the owner of the property. For the purposes of the ordinance, the "failure or refusal to depart from the premises of another, including publicly owned property, upon request to do so orally or in writing by any owner or occupant thereof" constituted trespass.

Representative Dave Donley

May 15, 1991

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In Perry Education, the United States Supreme Court summarized the standards applicable to statutes limiting access to public property. The actual standards applied varied with the character of the public property at issue. Where the property was traditionally devoted to or was dedicated for public assembly and debate (such as public streets and parks and universities), the state may not prohibit all expressive activity. The state can only regulate the content of speech if the regulation is necessary to serve a compelling state interest and the regulation was narrowly tailored to achieve that objective. The state can enforce content-neutral regulations as to the time, place, and manner of expressive activity provided that the regulations are narrowly tailored to serve a significant state interest and that ample alternative channels of communication were available.

Where the public property at issue is not a traditional or designated forum for expressive activities, the state may in addition to reasonable time, place, and manner regulations reserve the property for its intended public purposes, communicative or otherwise, as long as the regulation of expressive conduct was reasonable and not merely an effort to suppress expression merely because public officials oppose the speaker's views. The state just as any other property owner, has the power to preserve the property under its control for the use for which it was dedicated.

Following the guidance of these two cases the court of appeals struck down the municipal ordinance at issue in Fardig because it impermissibly allowed individuals to be ordered off public premises solely because the person expresses opinions which those in charge of the property disapproved. The flaw of the ordinance was that it applied to public property without stating with specificity under what circumstances a person may be asked to leave public property.

Though Fardig concerned regulation of trespass on public property and thus not directly applicable to HCS CSSB 38 (Resources) (bill) which relates to obstruction or hinderance of lawful hunting and regulates the conduct between individuals, the principles underlying Fardig can be applied to the bill for the purpose of determining whether the bill might be overbroad and thus infringe on First Amendment activities.

The bill regulates the conduct of individuals and makes it a crime to obstruct or hinder the lawful hunting, fishing, or trapping of another person on private and public property. The bill does not stop at prohibiting obstruction or hinderance. The bill sets out criteria defining what constitutes obstruction or hindrance. A person commits the crime of obstruction or hinderance of lawful hunting, fishing, or trapping by engaging in specific conduct (i.e. altering the feasibility of taking fish or game or creating a stimulus to alter the behavior of fish or game that another person is attempting to take) and by engaging in that conduct with the specific intent of obstructing or hindering the lawful activities of another person. The bill does not authorize a public official to arrest a person on public land for no reason at all or because the public official disagrees with the person's conduct or expressive activity.

Representative Dave Donley

May 15, 1991

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A public official may arrest a person only for engaging in the conduct prohibited in the bill and for intentionally engaging in that conduct to accomplish a unlawful goal. In my opinion, there is no unbridled discretion or standardless authority conveyed on a public official under the bill. The bill on its face is not overbroad under the standards utilized by the court of appeals in Fardig.

Unlike the trespass statute at issue in Grody which did not serve a narrowly defined public purpose, the bill provides a reasonable means for suppressing activities that interfere with the orderly use of public land for hunting, fishing, and trapping as authorized under article VIII of the Constitution of the State of Alaska. By their very nature, the places where hunting, fishing, and trapping occur are not traditional or designated forums for expressive activities. Thus under the standards set out in Perry Education, the state may impose reasonable time, place, and manner restrictions on expressive conduct in those places and may even preserve those places for their intended purposes by limiting expressive activities. To the extent that the bill provides for the regulation of expressive activities in these places, it is reasonable and is not an effort to suppress expression based on its content.

If I may be of further assistance, please advise.

GU:lmb:mi

91-189.lmb

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: _____

The RESOURCES Committee considered:

CSSB 38(JUD)am

CS FOR SENATE BILL NO. 38 (JUDICIARY) am

INTERFERENCE WITH HUNTING/FISHING

"An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping."

RECOMMENDATIONS:

be replaced with _____

HCS CSSB 38 (RES)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____ SENATE ADP+g

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i> LEMAN	<input checked="" type="checkbox"/>	<i>[Signature]</i> DAVIDSON		<input checked="" type="checkbox"/>	
<i>[Signature]</i> HUDSON	<input checked="" type="checkbox"/>	<i>[Signature]</i> LINCOLN			
<i>[Signature]</i> CARNEY	<input checked="" type="checkbox"/>	<i>[Signature]</i> MOYER		<input checked="" type="checkbox"/>	

[Signature]
CHAIRMAN'S SIGNATURE

SB-38, "HUNTER HARASSMENT"-----CONSIDERATIONS

1. Hunters, fishermen, and trappers are not being harassed in Alaska, and no new law is needed to protect them.
2. Existing laws, particularly the assault, criminal mischief, and general harassment statutes protect all wildlife user groups from the malicious behavior of others.
3. Since most conflicts occur within a particular user group, this proposed law would primarily be used to prosecute hunters, trappers, and fishermen. The attempt to overcome this in SB 38, Section 1, (e) by exempting those engaged in "lawful competitive practices" is either meaningless or unconstitutional. It is meaningless if the intent is to exempt those who are not committing the described offense. It is unconstitutional if the intent is to prevent only hunters, fishermen, and trappers from being prosecuted for engaging in hindrance or obstruction.
4. Any property owner or village official who attempts to prevent someone from hunting, fishing, or trapping on private lands would be in clear violation of the law unless he could prove that trespass has occurred.
5. If someone set traps near a homeowners property endangering pets or children, and the homeowner springs those traps he would be in violation of this proposed law. Justice is certainly better served under current law where the criminal mischief or general harassment standard would be applied.
6. If the legislature decides that wildlife user groups in Alaska need protection from harassment certainly all user groups including viewers, photographers, etc. deserve the same protection under the law.

RICHARD HELLARD, ALASKA WILDLIFE ALLIANCE, 789-2255

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MEMORANDUM

February 7, 1991

SUBJECT: Comparison of SB 38 with existing crimes

TO: Senator Steve Frank

FROM: George Utermohle *GU*
Legislative Counsel

You have asked for a comparison of SB 38, which creates a new crime of obstruction or hindrance of lawful hunting, fishing, or trapping, with certain existing crimes, including assault and harassment.

The crime of obstruction or hindrance of lawful hunting, fishing, or trapping prohibits a person from obstructing or hindering another person's lawful hunting, fishing, or trapping by intentionally (1) altering the feasibility of taking fish or game by another person; (2) creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the fish or game another person is attempting to take; or (3) tampering with personal property of another intended for use in the taking of fish or game. Customary commercial fishing practices are exempted from the coverage of the bill. A violation of this crime is an unclassified misdemeanor and is punishable by a fine of not more than \$500 or imprisonment for not more than 30 days or both. This punishment is intermediate between that prescribed for violations and class B misdemeanors.

The following is a summary of the relevant elements of certain existing crimes in order to provide a basis for comparing them with the elements of the crime of obstruction or hindrance of lawful hunting, fishing, or trapping.

Assault, Harassment, and Related Crimes

Assault in the First Degree - AS 11.46.200

A person commits the crime of assault in the first degree if

- (1) that person recklessly causes serious physical injury to another by means of a dangerous instrument;
- (2) with intent to cause serious physical injury to another, the person causes serious physical injury to any person; or

(3) the person knowingly engages in conduct that results in serious physical injury to another under circumstances manifesting extreme indifference to the value of human life.

Assault in the first degree is a class A felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than 20 years or both.

Assault in the Second Degree - AS 11.41.210

A person commits the crime of assault in the second degree if

(1) with intent to cause physical injury to another person, that person causes physical injury to another person by means of a dangerous instrument;
or

(2) that person recklessly causes serious physical injury to another person.

Assault in the second degree is a class B felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than 10 years or both.

Assault in the Third Degree - AS 11.41.220

A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument; or

(2) causes physical injury to another person by means of a dangerous instrument.

Assault in the third degree is a class C felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than five years or both.

Assault in the Fourth Degree - AS 11.41.230

A person commits the crime of assault in the fourth degree if

(1) that person recklessly causes physical injury to another person;

(2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or

(3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

Assault in the fourth degree is a class A misdemeanor and is punishable by a fine of not more than \$5,000 or imprisonment for not more than 1 year or both.

Reckless Endangerment - AS 11.41.250

Closely related to the crimes of assault is the crime of reckless endangerment which does not require actual injury or fear of injury but only the substantial risk of injury to another person. A person commits the crime of reckless endangerment if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person. Reckless endangerment is a class A misdemeanor.

Senator Steve Frank

February 7, 1991

Page 3

Harassment - AS 11.61.120

A person commits the crime of harassment if, with intent to harass or annoy another person, that person insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response; or subjects another person to offensive physical contact. Harassment may also include certain acts involving the misuse of telephones and violations of court orders in domestic relations cases which are not relevant to obstruction or hindrance of hunting, fishing, or trapping. Harassment is a class B misdemeanor and is punishable by a fine of not more than \$1,000 or imprisonment for not more than 90 days or both.

Other Relevant Crimes

In the content of obstruction or hindrance of hunting, fishing, or trapping, the crimes of criminal mischief and disorderly conduct, among others, may be relevant.

Criminal Mischief in the Second Degree - AS 11.46.482

A person commits the crime of criminal mischief in the second degree if, having no right to do so or any reasonable ground to believe the person has such a right, with intent to damage property of another, the person damages property of another in an amount of \$500 or more; or the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means. The crime of criminal mischief in the second degree may also include acts involving oil or gas pipelines and aircraft and motor vehicles that are not relevant to obstruction or hindrance of hunting, fishing, or trapping. Criminal mischief in the second degree is a class C felony.

Criminal Mischief in the Third Degree - AS 11.46.484

A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right, with intent to damage property of another, the person damages property of another in an amount of \$50 or more but less than \$500. The crime of criminal mischief in the third degree may also cover several acts involving motor vehicles, computers, fire protection devices, and traffic control devices that are not relevant to obstruction and hindrance of hunting, fishing, or trapping. Criminal mischief in the third degree involving damage to property of another is a class A misdemeanor.

Criminal Mischief in the Fourth Degree - AS 11.46.486

A person commits the crime of criminal mischief in the fourth degree if, having no right to do so or any reasonable ground to believe the person has such a right, with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another; or with intent to damage property of another, the person damages property of another in an amount less than \$50. Criminal mischief in the fourth degree may

also include acts involving motor vehicles that are not relevant to obstructing or hindering hunting, fishing, or trapping. Criminal mischief in the fourth degree is a class B misdemeanor.

Disorderly Conduct - AS 11.61.110

A person commits the crime of disorderly conduct if,

(1) with intent to disturb the peace and privacy of another not physically on the same premises or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;

(2) in a public place or in a private place of another without consent, and with intent to disturb the peace and privacy of another or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;

(3) in a public or private place, the person challenges another to fight or engages in fighting other than in self-defense; or

(4) the person recklessly creates a hazardous condition for others by an act which has no legal justification or excuse.

Certain other acts that are not relevant to obstructing or hindering hunting, fishing, or trapping are not listed here. For purposes of this crime "noise" is "unreasonably loud" if, considering the nature and purpose of the defendant's conduct and the circumstances known to the defendant, including the nature of the location and the time of day or night, the conduct involves a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. "Noise" does not include speech that is constitutionally protected. Disorderly conduct is a class B misdemeanor and is punishable as authorized in AS 12.55 except that a sentence of imprisonment, if imposed, shall be for a definite term of not more than 10 days.

There does not appear to be a gross duplication between the crime of obstruction or hindrance of lawful hunting, fishing, or trapping and the existing crimes summarized above. In particular, the crimes of assault, reckless endangerment, and harassment protect interests, right to not be subjected to personal injury or the threat of injury, that are distinctly different from those protected by the crime of obstruction or hindrance of lawful hunting, fishing, or trapping, right to engage in a lawful activity without malicious interference. The crimes of assault and the related crimes involve grave interference with significant personal interests and the penalties for those crimes reflect the seriousness with which society views those crimes.

The greatest extent of overlap between the proposed crime of obstruction or hindrance with lawful hunting, fishing, or trapping and existing crimes involves the various degrees of criminal mischief relating to damage to or tampering with the personal property of another person. However the overlap is far from complete.

Senator Steve Frank
February 7, 1991
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In certain circumstances the crime of disorderly conduct may include some acts that would constitute an aural stimulus that would alter the behavior of fish or game that another person is attempting to take. But the degree of overlap is not substantial because disorderly conduct alone would not result in liability under the crime of obstruction or hindrance of lawful hunting, fishing, or trapping; the act constituting the aural stimulus must be committed specifically to alter the behavior of fish or game that another person is attempting to take.

There does not seem to be any existing crime that prohibits or addresses acts intended to alter the feasibility of taking fish or game by another person.

If I may be of further assistance, please advise.

GU:pl
91-069.plm

THE ALASKA WILDLIFE ALLIANCE

P.O. Box 202022
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907-277-0897

May 1, 1991

House Resources Committee
P.O. Box V
Juneau, Ak, 99811

Dear Committee Members:

The Alaska Wildlife Alliance urges you to reject SB 38 because it is unnecessary, unfair, and it sends a hostile message to many wildlife user groups.

Hunters, fishermen, and trappers are not being harassed in Alaska, and no new law is needed to protect them. Existing laws, particularly the assault, criminal mischief, and general harassment statutes protect all wildlife user groups from the malicious behavior of others.

Since most conflicts occur within a particular user group, this proposed law would primarily be used to prosecute hunters, trappers, and fishermen. The attempt to overcome this by exempting those engaged in "lawful competitive practices" is either meaningless or unconstitutional. It is meaningless if the intent is to exempt those who are not committing the described offense. It is unconstitutional if the intent is to prevent only hunters, fishermen, and trappers from being prosecuted for engaging in hinderance or obstruction.

Another problem with this proposal is that any property owner who attempts to prevent someone from hunting fishing or trapping on private land would be in clear violation of the law unless he or she could prove that trespass has occurred.

This law could be used in other strange and unfortunate ways. Consider a case where someone legally sets traps near a homeowners property endangering pets or children. If the homeowner disarms these traps he would be in clear violation of the law. Justice is certainly better served under current law where the criminal mischief or general harassment standard would be applied.

Why single out hunters, fishermen, and trappers for special protection. If you are convinced that harassment is a real problem, why not protect all user groups including photographers and others. According to the April issue of Alaska's Wildlife, published by the Department of Fish and Game, wildlife watching [including viewing, photography, and feeding] is the fastest growing segment of wildlife recreation. "We have the opportunity



Alaska Reform
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3/16/91

To: Senator Frank
Senator Pierce
Sen. Sturgelewski
Rep. Davidson

Dear Legislators,

We appreciate your involvement in passage of the hunter harassment bill (SB38). We strongly support the current language.

In light of the growing national anti-hunting movement, we urge the House to promptly adopt this legislation also. Perhaps more important than potential inconvenience to individual hunters is the even greater potential for the anti movement to capture the national media attention by legally harrassing outdoorsmen.

We actively opposed last years version of this bill because it would have broadly denied public access to harvest information, rather than simply allowing penalties for abuse of that information.

Alaska Reform is currently surveying hunters, guides, outdoor groups as well as public officials in an effort to form a concensus on the principles of "Fair Chase" in hunting. We intend to introduce legislation next year to direct the Board of Game to act within these guidelines.

Unfortunately, the biggest threat to hunters is slobhunting.

We appreciate hearing from you on any proposed changes to the bill.

Sincerely,

Charles Rice
President

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



April 24, 1990

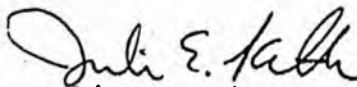
The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

Please be informed that the Alaska Federation of Natives is on record as supporting Senate Bill 469 as introduced.

You are correct your assessment that "hunter harassment" presents a potential threat to subsistence lifestyles in Alaska. SB469 will serve to protect lawful hunting rights and the special degree of dependence Alaska residents have on hunting and fishing resources.

Sincerely,


Julie E. Kitka
President

CORRECTION

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

THE ALASKA WILDLIFE ALLIANCE

P.O. Box 202022
Anchorage, Alaska 99520
907-277-0897

May 1, 1991

House Resources Committee
P.O. Box V
Juneau, Ak, 99811

Dear Committee Members:

The Alaska Wildlife Alliance urges you to reject SB 38 because it is unnecessary, unfair, and it sends a hostile message to many wildlife user groups.

Hunters, fishermen, and trappers are not being harassed in Alaska, and no new law is needed to protect them. Existing laws, particularly the assault, criminal mischief, and general harassment statutes protect all wildlife user groups from the malicious behavior of others.

Since most conflicts occur within a particular user group, this proposed law would primarily be used to prosecute hunters, trappers, and fishermen. The attempt to overcome this by exempting those engaged in "lawful competitive practices" is either meaningless or unconstitutional. It is meaningless if the intent is to exempt those who are not committing the described offense. It is unconstitutional if the intent is to prevent only hunters, fishermen, and trappers from being prosecuted for engaging in hinderance or obstruction.

Another problem with this proposal is that any property owner who attempts to prevent someone from hunting fishing or trapping on private land would be in clear violation of the law unless he or she could prove that trespass has occurred.

This law could be used in other strange and unfortunate ways. Consider a case where someone legally sets traps near a homeowners property endangering pets or children. If the homeowner disarms these traps he would be in clear violation of the law. Justice is certainly better served under current law where the criminal mischief or general harassment standard would be applied.

Why single out hunters, fishermen, and trappers for special protection. If you are convinced that harassment is a real problem, why not protect all user groups including photographers and others. According to the April issue of Alaska's Wildlife, published by the Department of Fish and Game, wildlife watching [including viewing, photography, and feeding] is the fastest growing segment of wildlife recreation. "We have the opportunity

in Alaska for developing a wildlife recreation and conservation program that could stand as a model for the world."

SB 38 does not help us create that model. It is purely an ideological statement that singles out one group for special treatment. That would be less offensive if you were voting on a resolution rather than a law.

The lawyers will love this law. By passing this bill you will be elevating another inevitable social conflict to the level of the court system.

Please reject SB 38.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Hellard". The signature is written in dark ink and is positioned above the printed name.

Richard Hellard
Representative



Alaska Reform
P.O. Box 116
Gustavus, Alaska 99826
(907) 697-2371

3/16/91

To: Senator Frank
Senator Pierce
Sen. Sturgelewski
Rep. Davidson

Dear Legislators,

We appreciate your involvement in passage of the hunter harassment bill (SB38). We strongly support the current language.

In light of the growing national anti-hunting movement, we urge the House to promptly adopt this legislation also. Perhaps more important than potential inconvenience to individual hunters is the even greater potential for the anti movement to capture the national media attention by legally harrassing outdoorsmen.

We actively opposed last years version of this bill because it would have broadly denied public access to harvest information, rather than simply allowing penalties for abuse of that information.

Alaska Reform is currently surveying hunters, guides, outdoor groups as well as public officials in an effort to form a concensus on the principles of "Fair Chase" in hunting. We intend to introduce legislation next year to direct the Board of Game to act within these guidelines.

Unfortunately, the biggest threat to hunters is slobhunting.

We appreciate hearing from you on any proposed changes to the bill.

Sincerely,

Charles Rice
President

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



April 24, 1990

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

Please be informed that the Alaska Federation of Natives is on record as supporting Senate Bill 469 as introduced.

You are correct your assessment that "hunter harassment" presents a potential threat to subsistence lifestyles in Alaska. SB469 will serve to protect lawful hunting rights and the special degree of dependence Alaska residents have on hunting and fishing resources.

Sincerely,

A handwritten signature in cursive script that reads 'Julie E. Kitka'.

Julie E. Kitka
President



ALASKA OUTDOOR COUNCIL, INC.

3780 MCGINNIS DR JUNEAU AK 99801
(907) 789-3460

P.O. Box 34097
Juneau, Ak. 99803

MEMORANDUM

DATE: March 13, 1990
TO: Senator Steve Frank
FROM: Ed Grasser, Director Legislative Affairs
RE: SB 469 Hunter Harassment

The Alaska Outdoor Council has continually supported the passage of legislation which will protect individuals engaged in lawful harvesting of fish and wildlife from undue harassment by those persons who believe such practices should be banned.

There are increasing incidents of unprovoked attacks by individuals opposed to the harvest of wildlife nationwide. These types of activities were not in evidence here in Alaska until recently; therefore, past efforts to protect an individual's legal harvest activities were denied by Governor Sheffield, who vetoed two different pieces of legislation which would have accomplished this vital goal.

This past year, Native peoples in remote areas of Alaska were harassed during their attempts to harvest marine mammals which they depend upon for a livelihood. These types of activities will no doubt increase as individuals opposed to the harvest of wildlife become bolder in their attempts to physically harass or prevent legal harvests from taking place.

The problems posed by the increasingly blatant attempts of anti-hunters for lawful outdoorsmen will continue to grow if we do nothing. We feel SB 469 is a step in the right direction to protect the rights of persons legally engaged in wildlife harvests. In our opinion it will go a long way toward solving any future potential conflicts between user groups and will help protect America's outdoor heritage.

ALASKA TRAPPERS ASSOCIATION

P.O. Box 82177

Fairbanks, Alaska 99708

Feb. 1, 1991

Sen. Steve Frank
Box V
Juneau, AK 99811

Dear Steve,

The Alaska Trappers Association gives its whole hearted support to Senate Bill 38.

As a statewide trappers organization we have seen a need for an anti harassment law and have always supported the concept. Any help we can give you in the passage of this bill will be rendered if at all possible.

Sincerely,

A. Roy Wilbur
Vice Pres. Alaska
Trappers Ass.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INCORPORATED 1871

1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

RUPE ANDREWS
FIELD REPRESENTATIVE
ALASKA

9416 LONGRUN DRIVE
JUNEAU AK 99801
907/789-7422

January 30, 1991

Hon. Steve Frank
Alaska State Senate
Capitol Building
Juneau, AK 99801

Dear Senator Frank:

This letter is to affirm support of the National Rifle Association for Senate Bill No. 38, " An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping." The Alaska membership of NRA has long sought a statutory solution to this problem. Alaskan hunters, fishermen and trappers need lawful means to protect them from the harassment of those that have personal objections to these activities.

Our review of SB 38 indicates agreement with similar legislation approved by Legislatures in other States and could be model legislation for others. Legislation of this type has proved valuable to wildlife resource users by providing a legal redress for loss of hunting opportunities and preventing violent attacks on lawful hunters and trappers.

Sincerely.

Rupe Andrews, Field Representative Alaska

friends of animals, inc. 11 West 60th Street, New York, N.Y. 10019

NRA/ILA

LIBRARY (212) 247-8120

AUG 30 1983

TIPS FOR HUNT SABOTEURS

DATE _____

2

Fourteen million Americans will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against our wildlife. These legions, which are more numerous, and generally better equipped than the entire Nazi armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few hunters.

It is time for friends of animals to start organizing a defense that will serve to at least temper the wanton destruction. There are many ways that a friend of animals can become a forest partisan on behalf of our wildlife, and we offer here a few suggestions that range in effort, depending upon a person's abilities and commitment:

1. Deny the hunter the land to hunt on. Much hunting is done on private lands. To protect these animals, encourage your neighbors, especially those who own large tracts such as farms and ranches, to post their land and forbid hunting. Try to convince them that hunters invariably cause more damage to agriculture than the wild animals do.
2. Many areas have hunting restricted to a specified number of hunters who have special permits. Commonly, these permits allow the hunter to use a particular blind or hunt less common species, such as bear. Apply for these permits yourself. The permits are usually awarded by a simple lottery selection. If you're lucky, you'll win a permit and deny a hunter his kill.
3. Get into the woods yourself the day before the hunting season. If you're familiar with the most commonly hunted areas, try to drive wildlife away. A stroll through the forest with a nice loud radio and a dog on a leash, will serve to make wildlife more wary of humans. This is particularly important for younger animals that have not yet had the traumatizing experience of being hunted.
4. Certain substances, such as rotten eggs, when rubbed into hunting blinds, make these enclosures even more uncomfortable for the hunters. Uncomfortable hunters are irritable, and are also poorer shots. Plastering the floor of a hunting blind with cow dung is another good idea.
5. If you're familiar with wildlife habits in your neighborhood, try to encourage them to break these habits shortly before hunting season. For instance, many hunters like to stalk along deer tracks which are pretty well defined to a good woodsman. Placing deer repellent (available at many feed and hardware stores) along these tracks will encourage the deer to move away and leave the hunter with a route devoid of the species. If you want to save money, just scoop up a bag of human hair from a local barber shop and hang handfuls of it in little bags about two or three feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If there is much hunting with dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or deer.

HUNTING SEASON IS HERE

Get Out Your Hip Boots and Make Life Difficult For the Weekend Woodsman

American hunters will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against wildlife. This legion, which is generally better equipped than the entire German armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few of themselves. How about calling a meeting of a few friends to plan for this hunting season? Here are a few ways you can strike out against the hunt:

1. Encourage neighbors with acreage to post their land. Let them know that hunters cause more damage than wild animals.
2. Many areas have hunting restricted to a specified number of hunters with permits. The permits are usually awarded by a simple lottery selection. Apply for these permits yourself; you may win one and deny a hunter his kill.
3. Get into the woods the day before hunting season. Try to drive wildlife away. Stroll about with a loud radio or a dog on a leash to make wildlife wary of humans.
4. Rotten eggs or cow dung can be rubbed into the floor and walls of hunting blinds to make hunters uncomfortable. Uncomfortable hunters are irritable, and are more likely to miss.
5. Placing deer repellent (available at many feed and hardware stores) along deer routes will encourage the deer to move away and leave the hunter with a route devoid of the species. Scoop up a bag of human hair from a local barber shop and put handfuls of it in little bags about 2 or 3 feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If hunters use dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through



"Okay! Now don't move, Andy! Here comes Mom!"

an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or other hunted animals.

7. If you have a portable tape recorder, buy a cassette recording of wolf howls. Play this in the woods a few times in the days before hunting season.
8. Buy large, old stuffed animal toys at a local thrift shop or make your own. Set these around commonly hunted areas. Hunters often don't take the time to check if an animal is real! Better to have a hole in a cotton rabbit than a real one—and the noise of the gun going off may scare away other wildlife. ■

Excerpted from Friends of Animals "Tips for Hunt Saboteurs"

COMMITTEE TO ABOLISH SPORT HUNTING

Called "One of the Most Dangerous and Aggressive Organizations in the U.S." by the National Rifle Association

C.A.S.H. has

- ★ Won an epic battle to keep hunters out of 52,000 acre Harriman State Park in New York
- ★ Filed a lawsuit to stop hunting at Riley Creek State Park in Pennsylvania
- ★ Defeated the U.S. Department of Interior's ban on anti-hunting demonstrations at Great Swamp Refuge, New Jersey

Specializing only in the fight against "sport" hunting, C.A.S.H. can continue working for wildlife only because people like you care.

\$20 provides a 1-year membership. Contributions of any size are gratefully accepted and immediately put to use. Write us:

The Committee to Abolish Sport Hunting
Box 43, White Plains, New York 10605
or call: 212/428-7523

Humane Group To Seize Animal Leghold Traps

By STEVE GRANT

Friends of Animals Inc. said Friday it is going to trip up trappers by setting off their leghold traps when the season opens next week.

The organization said it will ask its 4,500 members in Connecticut to look for the traps, touch them off with a stick and remove them, because it believes the traps are inhumane.

"We can't as an organization advise people to remove legally set leghold traps. It wouldn't be a smart thing to do. What we're asking them to do is remove illegally set traps. Our guess is most of them are illegal," said Priscilla Feral, the organization's Connecticut director.

Game laws require all leghold traps to have the owner's name on them and they must be placed underwater or in an animal's burrow.

A spokesman for trappers questioned the new campaign, which will begin next Saturday, when the season opens.

"They're setting up a vigilante group. Vigilantes in any situation are not good. They don't know enough and they tend to break the law themselves," said Robert Crook of Madison, a member and former president of the Connecticut Trappers Association, which has about 800 members.

"I wouldn't object to anybody coming out and checking my traps, as long as they had the permission of the landowner, and as long as they didn't steal them, set them off or take animals out. But I really don't think that's their responsibility," Crook added.

He said the state Department of Environmental Protection is responsible

for seeing that trapping is conducted legally and that he understood the group was told by DEP not to remove illegal traps but instead to report them to a game warden.

Ms. Feral said a trapper's name legally can be placed anywhere on a trap, so members would have to trip them to check. She said members would not be advised to reset legal traps.

"DEP can read the riot act to me if it wishes. But no way will we aid the trapper. Our object is to get rid of the leghold trap," she said.

The organization has argued that the trap, which has two steel jaws that slam shut when an animal touches a piece of bait, is barbaric because some animals die slowly or are left crippled. Ms. Feral said domestic animals also have been caught in the traps. There are other traps available that are more humane, she said.

Crook estimated that there are 8,000 trappers in Connecticut, with the average trapper placing 50 or 100 traps in the wild.

The most commonly trapped animal in the state is the muskrat, which can yield a pelt that will fetch up to \$8. Raccoon, fox, mink, opossum, weasel, skunk and beaver also can be trapped legally, though the season for some of those animals does not begin until later.

Friends of Animals, which is based in New York, has waged other campaigns against hunters. Some members went into the Connecticut woods recently to play recorded wolf howls to alert animals of danger when the deer hunting season opened.

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1989

Subsistence Conference Summary



“Subsistence Is Survival”



Photo by David Hardenbergh

Co-Sponsored by the Alaska Federation of Natives, Inc.
and the Rural Alaska Community Action Program, Inc.

October 16-17, 1989

Egan Convention Center, Anchorage

1989 Subsistence Conference

Migratory Birds in Western Alaska

The topic of migratory birds was the focus of the next speaker, Jack U. Williams, Sr. of Mekoryuk. Chuck Hunt interpreted for him. As Mr. Williams was growing up, there were very many ducks and geese. He never heard of waterfowl sport hunting at that time, nor were there shotguns. They used bows and arrows when hunting waterfowl.

The Waterfowl Conservation Commission, chaired by Mr. Williams, originated in 1984. The main purpose of the WCC is to work with the USFWS and others to help people in the villages of the Y-K Delta deal with the issue of waterfowl population declines.

Animal Rights Groups Threaten Subsistence Lifestyles

The panel on "Threats to Our Way of Life - The Animal Rights Agenda" was next. Larry Mercurieff, Commissioner of the Alaska Department of Commerce and Economic Development, and Dave Monture of Indigenous Survival International in Canada were the speakers.

Mr. Mercurieff showed a video depicting animal rights protectionists harassing Natives on the Pribilof Islands, because of their use of fur seals for subsistence. His focus was on strategies and tactics used by the animal rights groups, their effect on aboriginal people, and what can be done about it. "What happened in the Pribilofs are exactly the same things that will be focused on throughout Alaska, throughout the entire Northern Hemisphere, and throughout the whole world," due to the activities of the animal rights groups.

Dave Monture described Indigenous Survival International as an organization born in 1984 as a direct result of the Dené people in Canada's Northwest Territories becoming very concerned about a new wave of a "colonial attitude from the South," -- people organizing with tremendous resources in a manner which would prove to be a great threat to Dené plans for self-determination and land claim settlements in the Northwest Territories.

"We're not dealing with people with the same sense of ethics or fairness, but we're dealing with people with a new zeal, a new religion for urban Western man," Monture said. ISI-Canada has joined with the British Museum to produce "The Living Arctic," a highly successful major exhibition in London, England designed to educate the public on aboriginal lifestyles.

In Conclusion

The afternoon session commenced with workshops on "Marine Mammals," "Title VIII of ANILCA," and the "Animal Rights Movement." The facilitators of these sessions reported back to the general assembly following the workshops.

The Animal Rights Movement workshop participants first viewed a film on strategies and the lack of ethics in the animal rights community, specifically in the Native seal campaign. It was concluded that animal rights groups pose a life-threatening situation to our people, not only in their methods of fire-bombs, but in actual cases of teenagers committing suicide in communities where seal subsistence is being cut off, thereby drastically altering traditional lifestyles.

The Marine Mammals workshop addressed the five species of seals in Alaska, sea otter, walrus, beluga whale, and polar bear. The participants learned that there are 900,000 fur seals today, and the population may have leveled off. The Fish & Wildlife program on walrus includes a management plan for walrus, monitoring populations, monitoring harvest, and habitat protection.

The Alaska Sea Otter Commission was formed in 1988. The Commission is very concerned about a proposed rule by the Fish & Wildlife Service to restrict cottage industry practices involving sea otter by Alaska Natives. The Commission has recently initiated a Memorandum of Agreement with FWS which, along with a Management Plan, would address problems FWS is trying to answer in its proposed rule.



Dave Monture of ISI-Canada (left) led a workshop on the threats that animal rights groups are posing to subsistence lifestyles. Rural CAP attorney Eric Smith (below) explaining how villages can write their own fish and game regulations.



March/April 1991

Alaska's wildlands provide a rich variety of recreational and educational experiences found nowhere else in the world. This issue of *Alaska's Wildlife* focuses on wildlife watching opportunities in Alaska and their relationship to economics and conservation.

According to the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, more than 167 million Americans (about 75 percent) participated in hunting, fishing or wildlife watching during 1985. The survey also identified wildlife watching (including viewing, photography, and feeding) as the fastest growing segment of wildlife recreation, with 135 million participants age 16 years old or older accounting for \$14 billion in annual expenditures. The same survey estimated that 288,000 Alaskans participated in wildlife watching in 1985. Clearly, wildlife watching has become a significant and growing recreational pursuit in Alaska and across the nation.

Wildlife managers throughout the United States are being challenged by diverse and increasing demands for wildlife recreation while, concurrently, wildlife habitat is shrinking and becoming fragmented. Revenues to support management and conservation programs are also declining. In recognition of this dilemma and the burgeoning public interest in wildlife, state and federal wildlife agencies are embracing the national "Watchable Wildlife" initiative. The central focus of this initiative, which is endorsed by national conservation groups (including Defenders of Wildlife, Izaak Walton League, National Audubon Society, and National Wildlife Federation), federal land management agencies, and the International Association of Fish and Wildlife Agencies, is to promote and expand wildlife recreation and education. This, in turn, is expected to broaden public support and funding for the conservation of all wildlife species and their habitats.

Like our counterparts in Colorado, Montana, Oregon, and Wyoming, the Division of Wildlife Conservation recognizes the opportunity the "Watchable

Wildlife" initiative represents for enhancing wildlife recreation and conservation in Alaska. This should not be interpreted as abandoning our traditional hunting constituency, nor decreasing our efforts to provide for sustained yield of game resources. Rather, we are acknowledging an expanding public interest in wildlife conservation and management and we will begin broadening our programs to reflect that change. All wildlife users (including hunters, wildlife watchers, and tour operators) must recognize that the conservation of wildlife habitat is the common ground they share in their pursuit of wildlife opportunities throughout this remarkable state.

We have the opportunity in Alaska for developing a wildlife recreation and conservation program that could stand as a model for the world. There are few areas on earth that capture people's enthusiasm for experiencing wildlife and wildlands more than Alaska. Tourism has become a billion dollar industry in Alaska and our spectacular wildlife resources are one of the state's primary attractions. A brief glance at Alaska travel brochures lends credence to this point. Where else can you walk on an ocean beach and watch mountain goats, brown bears, bald eagles, and humpback whales; or hike a tundra ridge and observe caribou, Dall sheep, snowy owls, muskoxen, wolves, and hundreds of thousands of migratory birds? In east Africa where wildlife viewing and photography have become a major industry, they say, "If wildlife pays, wildlife stays!"

This issue of *Alaska's Wildlife* highlights some of the world's premiere viewing areas, explains how and when to find several of the most sought-after species, and how we manage for wildlife viewing. You will also learn more about the importance of wildlife to the tourism industry and its potential economic significance to the state.

Although Alaska has outstanding potential for wildlife watching, we are at an early stage in our development of these new programs. One of our new projects, in cooperation with other resource agen-



John V. Schoen

cies, will be a revision of the department's *Guide to Wildlife Viewing in Alaska* as part of a new national series. A key to successfully broadening the division's wildlife program will be finding new alternative funding sources. Currently, over 80 percent of our division budget comes from hunters through the sale of hunting licenses and excise taxes on firearms and ammunition.

Successful conservation of Alaska's unique wildlife heritage will require broad-based public support and interagency cooperation. We believe that expanding wildlife recreational and educational opportunities in Alaska will increase the public's enjoyment of their wildlife resources, promote long-term conservation, and benefit the Alaskan economy. We welcome your ideas and comments as we begin our new and exciting journey toward expanding wildlife management on the last frontier.

John Schoen in the senior staff biologist for Conservation and Education, Division of Wildlife Conservation, ADF&G, Fairbanks.

S B

3 9

I) USE COMMITTEE REPORT

(7)

Date Referred: May 17, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/10/92

The JUDICIARY Committee considered:

CSSB 39(FIN)

CS FOR SENATE BILL NO. 39 (FINANCE)

PERMANENT FUND TECHNICAL REVISIONS

"An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____

HCS CSSB 39 (JUD)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR, PERMANENT FUND CORP.

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Daniel Donley</u>	✓				
<u>John Ellis</u>	✓				
<u>William Paul Parnell</u>	✓				
<u>Mike Miller</u>	✓				
<u>Henry Martin</u>	✓				
<u>Mark Stanley</u>	X				

Daniel Donley
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. CS SB 39

Revision Date: _____ Department Affected: AK Permanent Fund Corporation
 Title: An Act relating to the permanent fund and the AK Permanent Fund Corp.; and providing for an effective date. BRU: Alaska Permanent Fund Corporation
 Sponsor: Senator Pat Pourchat Component: #109 AK Permanent Fund Corporation
 Requestor: House Judiciary Committee COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: *David A. Rose* Phone: (907) 465-2047
 Division: Alaska Permanent Fund Corporation Date: 1/23/92
 Approved by Commissioner: Darrel Rexwinkel, Department of Revenue *Darrel Rexwinkel*
 Agency: Alaska Permanent Fund Corporation Date: 1/23/92

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 39(Fin)

Revision Date: 5-Feb-92 Department Affected: Natural Resources
 Title: Permanent Fund Technical Revision BRU: Management & Administration
 Components: Administrative Services
 Sponsor: Senator Pourchot
 Requestor: House Judiciary COMPONENT SERIAL NO. 424

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sharon Barton Phone: 465-2406
 Division: Management and Administration Date: 5-Feb-92

Approved by Commissioner: Harold C. Heinze Date: 5-Feb-92
 Agency: Department of Natural Resources

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 39 (FIN)

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the Alaska BRU: Legal Services
Permanent Fund Corporation..." Component: Operations
 Sponsor: Senator Pourchot
 Requestor: House Judiciary Committee COMPONENT SERIAL NO.

		9	3
--	--	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL						

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 3, 1992
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 3, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 39 (FIN)

This bill makes numerous housekeeping changes to AS 37.13, the Alaska Permanent Fund statutes. Of particular note, Section 17 amends AS 37.13.140 to provide that the net income of the fund includes income of the reinvested earnings reserve account, which heretofore was excluded from determining the amount available for distribution under AS 37.13.145. Section 18 amends AS 37.13.145 to provide that income earned on money awarded after trial in State v. Amerada Hess shall be treated in the same manner as other income of the permanent fund, except that it is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the fund. This change further clarifies changes already made in AS 43.23.045 to help protect the state from defendants' legal attacks in the North Slope royalty litigation. These change should not have a fiscal impact on the Department of Law.

HOUSE CS FOR CS FOR SENATE BILL NO. 39 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Menard

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and
2 providing for an effective date."

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

Amnd. #1: New Sec. 1, AMEND AS 36.30.850 (b)(16) TO EXTEND procurement code exemption TO FIRMS WITH "Fiduciary duties" UNDER CONTRACT TO THE P.F. Corp.

4 * Section ~~17~~ AS 37.13.010(a) is amended to read:

Re-number →

5 (a) Under art. IX, sec. 15 of the state constitution, there is established as a separate fund
6 the Alaska permanent fund. The [ALASKA PERMANENT] fund principal consists of

7 (1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net
8 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments
9 received by the state from mineral leases issued on or before December 1, 1979, and 25 percent
10 of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

11 (2) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net
12 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments
13 received by the state from mineral leases issued after December 1, 1979, and 50 percent of all
14 bonuses received by the state from mineral leases issued after February 15, 1980;

1 (3) interest earned on money described in (1) and (2) of this subsection while
2 the money is held in trust, escrow, or otherwise before receipt of the money by the state;

3 (4) any other money appropriated to or otherwise allocated by law to the
4 [ALASKA PERMANENT] fund.

AMND #2
T

5 * Sec. ³2. AS 37.13.010(b) is amended to read:

6 (b) Payments due the Alaska permanent fund under (a) of this section shall be made to
7 ^{within three banking days that} the fund ~~on the day~~ the amount due to the fund reaches at least ^{\$3,000,000} ~~\$5,000,000~~ and at least once
8 each month.

AMND #3
↗

9 * Sec. ⁴3. AS 37.13.020 is amended to read:

10 Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have
11 required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale
12 proceeds, and federal mineral revenue sharing payments and bonuses received by the state into
13 a permanent fund. The legislature finds with respect to the fund [ALASKA PERMANENT
14 FUND CORPORATION] that

15 (1) the fund [CORPORATION] should provide a means of conserving a portion
16 of the state's revenue from mineral resources to benefit all generations of Alaskans;

17 (2) the fund's [CORPORATION'S] goal should be to maintain safety of principal
18 while maximizing total return;

19 (3) the fund [CORPORATION] should be used as a savings device managed to
20 allow the maximum use of disposable income from the fund [CORPORATION] for purposes
21 designated by law.

22 * Sec. ⁵4. AS 37.13.030 is amended to read:

23 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for
24 the management and investment of those [PERMANENT] fund assets by [ALLOCATED TO]
25 the Alaska Permanent Fund Corporation in a manner consistent with the findings in
26 AS 37.13.020.

27 * Sec. ⁶5. AS 37.13.040 is amended to read:

28 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established
29 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government
30 instrumentality in the Department of Revenue managed by the board of trustees. The purpose
31 of the corporation [BOARD] is to manage and invest the assets of the permanent fund and

AMND. #4:

1 other funds designated by law [CORPORATION] in accordance with this chapter.
2 * Sec. ⁷6. AS 37.13.110(b) is amended to read: ^{NEW SEC. 6 (SEC. 7 IF AMND. #1 IS ADOPTED) AMEND AS 37.13.080 TO} Require AN AFFIRMATIVE VOTE OF 4 BOARD MEMBERS
3 ^{TO TAKE ACTION.}

4 (b) If a member of the board or an employee of the corporation acquires, owns, or
5 controls an interest, direct or indirect, in an entity or project in which fund [CORPORATION]
6 assets are invested, the member shall immediately disclose the interest to the board. The
7 disclosure is a matter of public record and shall be included in the minutes of the board meeting
8 next following the disclosure.

9 * Sec. ⁸7. AS 37.13.120(a) is amended to read:

10 (a) The prudent-investor [PRUDENT-MAN] rule shall be applied by the board in the
11 management and investment of [ALASKA PERMANENT] fund assets. The prudent-investor
12 [PRUDENT-MAN] rule as applied to investments of the fund [CORPORATION] means that in
13 making investments the board shall exercise the judgment and care under the circumstances then
14 prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises
15 in the management of large investments entrusted to it not in regard to speculation but in regard
16 to the permanent disposition of funds, considering probable safety of capital as well as probable
17 income.

18 * Sec. ⁹8. AS 37.13.120(b) is amended to read:

19 (b) The fund [CORPORATION] assets shall only be used for income-producing
20 investments.

21 * Sec. ¹⁰9. AS 37.13.120(e) is amended to read:

22 (e) The corporation may not borrow money [FUNDS] or guarantee from principal of the
23 [ALASKA PERMANENT] fund the obligations of others.

24 * Sec. ¹¹10. AS 37.13.120(g) is amended to read:

25 (g) Subject to the limitations contained in this section, the board may invest fund
26 [CORPORATION] assets at the competitive national market rates or prices that are applicable
27 to each investment only in

28 (1) obligations of, or obligations insured by or guaranteed by, the United States
29 or agencies or instrumentalities of the United States;

30 (2) obligations secured by reserves paid in by the United States or agencies or
31 instrumentalities of the United States or obligations of corporations in which the United States
is a shareholder or member;

1 (3) certificates of deposit and term deposits of United States domestic banks that
 2 are members of the Federal Deposit Insurance Corporation and that may be readily sold in a
 3 secondary market at prices reflecting fair value or that are fully secured at all times as to
 4 payment of principal and interest as described in (m) of this section;

5 (4) certificates of deposit and term deposits of federally chartered savings and
 6 loan associations in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET
 7 AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments
 8 of principal and interest as described in (m) of this section;

9 (5) [CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF STATE
 10 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE
 11 READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE
 12 OR THAT ARE FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL
 13 AND INTEREST AS DESCRIBED IN (m) OF THIS SECTION;

14 (6) certificates of deposit and term deposits of mutual savings banks in Alaska
 15 [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING
 16 FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as
 17 described in (m) of this section;

18 (6) [(7)] fixed-term certificates of indebtedness of federally insured credit unions
 19 in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES
 20 REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal
 21 and interest as described in (m) of this section;

22 *AMND. * 1: P.F. Comp* [(7) [(8)] domestic corporate debt securities that are rated ^{"A"}~~AA~~ or better by a
 23 *CAN INVEST DOWN TO "A" FROM "AA"* nationally recognized rating service, or nondomestic corporate debt securities of comparable
 24 quality; *Provided that not more than 10% of the total investments of the fund are invested in "A" Corporate debt Securities.*

25 (8) [(9)] short-term

26 (A) domestic corporate promissory notes of the highest ratings assigned
 27 by a nationally recognized rating service; [,] or

28 (B) nondomestic corporate promissory notes of comparable quality, the
 29 interest on which may be payable in either United States dollars or nondomestic
 30 currencies;

31 (9) [(10)] bankers' acceptances drawn on and accepted by United States banks

1 each of which has a combined capital and surplus aggregating at least \$200,000,000;

2 ~~(10)~~ [(11)] repurchase agreements, the securities underlying the agreements being
3 any of the items in (1) - (6) [(1) - (3) AND (8) - (10)] of this subsection;

4 (11) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS
5 ADMINISTRATION LOANS;

6 (13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES
7 GUARANTEED BY THE FEDERAL VETERANS ADMINISTRATION;

8 (14) the portions of business and industrial loans made under the Rural
9 Development Act of 1972 that are guaranteed by the Farmers Home Administration;

10 (12) [(15)] the guaranteed portion of Farmers Home Administration loans;

11 (13) [(16)] notes secured by mortgages granting a first lien on [COMMERCIAL
12 OR] residential real estate improved by completed buildings if the mortgages are insured by a
13 private mortgage insurance corporation that is authorized to do business in this state [ALASKA]
14 and has combined capital and surplus aggregating at least \$20,000,000, and if loan-to-value ratios
15 do not exceed [75 PERCENT FOR COMMERCIAL MORTGAGES AND] 90 percent [FOR
16 RESIDENTIAL MORTGAGES]; however,

17 [(A) MORTGAGE INSURANCE IS NOT NECESSARY FOR
18 COMMERCIAL LOANS HAVING LOAN-TO-VALUE RATIOS OF LESS THAN 50
19 PERCENT AND THE MINIMUM COVERAGE OF OTHER COMMERCIAL LOANS
20 SHALL BE 10 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO OF
21 50 - 60 PERCENT AND 15 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE
22 RATIO GREATER THAN 60 PERCENT BUT NO MORE THAN 75 PERCENT; AND

23 (B) mortgage insurance is not necessary for residential loans having a
24 loan-to-value ratio of less than 70 percent and the minimum coverage of other residential
25 loans shall be 10 percent for those having a loan-to-value ratio greater than 70 percent
26 but less than 90 percent and 20 percent for those having a loan-to-value ratio of 90
27 percent;

28 (14) [(17)] NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN
29 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE
30 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE
31 MORTGAGE UNTIL MATURITY;

1 ^{Now} ~~(18)~~ preferred and common stock of corporations incorporated in the United
 2 States; ⁽⁹⁾⁽¹⁴⁾ (see Page 7, LW 28)

3 ~~(15)~~ [(19)] certificates of deposit, term deposits, or bankers' acceptances, that are
 4 issued by a United States or nondomestic bank or trust company located outside of the United
 5 States and are denominated in United States or nondomestic currency, if either (A) they may be
 6 readily sold in a secondary market at prices reflecting fair value, or (B) the issuing bank or trust
 7 company has capital, surplus, and retained earnings at the date of issue equaling at least
 8 \$500,000,000; investments made under this paragraph are not subject to the collateral
 9 requirements for domestic certificates under (m) of this section;

10 ~~(16)~~ [(20)] equity interests in, and debt obligations secured by mortgages granting
 11 a first lien on, real estate improved by completed and substantially rented buildings and located
 12 in the United States, if these investments are made

13 (A) in a corporation, partnership, trust, or other entity in which, at the
 14 conclusion of each investment transaction, at least 60 percent of the beneficial ownership
 15 interests are held by other institutional investors, and which is organized and operated for
 16 the purpose of making real estate investments by a bank, insurance company, or other
 17 manager of institutional funds that has had at least five years of experience in the
 18 management of real estate investments of institutional investors; or

19 (B) with corporations, partnerships, trusts, or entities in which, at the
 20 conclusion of each investment transaction, at least 60 percent of the beneficial
 21 ownership interests in the co-investing entity or entities as a whole are held by
 22 institutional investors, if

23 (i) at the time of investment the fund has no more than
 24 a 40 percent beneficial ownership interest in the real estate invested in as a
 25 whole;

26 (ii) the rights and obligations of the fund are
 27 substantially similar to those of the other institutional investors, except for the
 28 percentage interest in the property; and

29 (iii) the property is managed and operated by an entity
 30 that has had at least five years of experience in the management of real estate
 31 investments of institutional investors [IN CONJUNCTION WITH AND ON

1 SUBSTANTIALLY THE SAME TERMS AS AN ENTITY DESCRIBED IN (A)
2 OF THIS PARAGRAPH];

3 (17) [(21)] securities of non-domestic governments and non-domestic government
4 agencies, the principal of, or interest on, which is payable in either United States dollars or non-
5 domestic currencies;

6 (18) [(22)] securities of non-domestic corporations, including common and
7 preferred stock, whose dividends, if any, may be payable in either United States dollars or non-
8 domestic currencies;

9 (19) taxable municipal or state debt securities that are rated "AA" or better
10 by a nationally recognized rating service;

11 (20) shares in a money market or short-term investment fund that has either
12 collateral securities of a type authorized elsewhere in this section as acceptable collateral
13 or securities of similar quality to those authorized elsewhere in this section as acceptable
14 collateral.

15 * Sec. 11. AS 37.13.120(i) is amended to read:

16 (i) The [ALASKA PERMANENT] fund may at no time own more than five percent of
17 the voting stock of a corporation. Domestic stocks, except for bank and insurance company
18 stocks, must be listed at the date of purchase on an exchange registered with the Securities and
19 Exchange Commission. At the time of each investment, the aggregate investment of the fund in
20 each stated category of investment may not exceed the following stated percentage of the total
21 investments of the fund:

- 22 (1) mortgages under (g)(13) [(g)(16)] of this section - 15 percent;
- 23 (2) real estate investments under (g)(16) [(g)(20)] of this section - 15 percent;
- 24 (3) certificates of deposit, term deposit, or bankers' acceptances under (g)(15)
25 [(g)(19)] of this section - 20 percent;
- 26 (4) securities of nondomestic governments, nondomestic government agencies, and
27 nondomestic corporations under (g)(7), (17), and (18) [(g)(8), (21), AND (22)] of this section,
28 domestic corporate stocks and debt securities under (g)(7) [(g)(8)] and (14) [(18)] of this section,
29 and short-term nondomestic corporate promissory notes under (g)(8)(B) [(g)(9)(B)] of this section
30 - 50 percent.

31 * Sec. 12. AS 37.13.120(j) is amended to read:

(g)(14) - See page 6, L.N. 1.

*AMND. #1:
Removes U.S. corp. debt
Securities from
(bonds) from
50% limit on
stocks and
investments.
All Non-U.S. Investments.*

1 (j) The assets of the [ALASKA PERMANENT] fund may not be used for the purchase
 2 of bonds of a corporation, upon which any regular interest payment has been defaulted within
 3 five years before purchase, except bonds never in default but which have been outstanding for
 4 less than five years.

5 * Sec. ¹⁴~~13~~. AS 37.13.120(k) is amended to read:

6 (k) The board shall establish and from time to time as necessary modify guidelines for
 7 the investment of the assets of the fund [CORPORATION]. Before adoption of any guidelines
 8 the guidelines shall be reported to the Legislative Budget and Audit Committee for review and
 9 comment.

10 * Sec. ¹⁵~~14~~. AS 37.13.120(l) is amended to read:

11 (l) The board shall invest the assets of the fund [CORPORATION] in in-state
 12 investments to the extent in-state investments are available if the in-state investments

13 (1) have a risk level and expected yield comparable to alternate investment
 14 opportunities; and

15 (2) are included in the list of permissible investments in (g) of this section.

16 * Sec. ¹⁶~~15~~. AS 37.13.120(m) is amended to read:

17 (m) Certificates of deposit or the equivalent instruments that are not of a quality that may
 18 be readily sold in a secondary market at prices reflecting fair value must be secured by a pledge
 19 as collateral of

20 (1) investments authorized for the [ALASKA PERMANENT] fund under (g)(1),
 21 (2), (4), or (8) - (10) [(8), OR (12) - (17)] of this section;

22 (2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the state or
 23 instrumentalities of the state that are rated at least "A" by a major bond rating service and have
 24 a demonstrated secondary market;

25 (3) the guaranteed portion of Federal Small Business Administration loans;

26 (4) the portion of first lien real estate mortgages guaranteed by the federal
 27 Department of Veterans Affairs; or

28 (5) notes secured by mortgages granting a first lien on commercial or
 29 residential real estate improved by completed buildings if the originating financial
 30 institution retains at least 25 percent of the mortgage until maturity [, WHICH
 31 INVESTMENTS OR OBLIGATIONS HAVE VALUE AT LEAST EQUAL TO THE FACE

1 VALUE OF THE CERTIFICATE OF DEPOSIT. THE BOARD MAY REQUIRE
2 SUBSTITUTION OF COLLATERAL IN ORDER TO ENSURE CONTINUED SATISFACTION
3 OF THE REQUIREMENTS SET OUT IN THIS SUBSECTION].

4 * ¹⁷Sec. ~~16~~. AS 37.13.120 is amended by adding a new subsection to read:

5 (n) Investments or obligations pledged as collateral under (m) of this section must have
6 value at least equal to the face value of the certificates of deposit being secured. The board may
7 require substitution of collateral in order to ensure continued satisfaction of the requirements set
8 out in (m) of this section.

9 * ¹⁵Sec. ~~17~~. AS 37.13.140 is amended to read:

10 Sec. 37.13.140. INCOME. Net income of the fund includes income of the earnings
11 reserve account established under AS 37.13.145. Net income of the fund [CORPORATION]
12 shall be computed annually as of the last day of the fiscal year in accordance with generally
13 accepted accounting principles, excluding any unrealized gains or losses. Income available for
14 distribution equals 21 percent of the net income of the fund [CORPORATION] for the last five
15 fiscal years, including the fiscal year just ended, but may not exceed net income of the fund
16 [CORPORATION] for the fiscal year just ended plus the balance in the earnings reserve account
17 described in AS 37.13.145.

18 * ¹⁹Sec. ~~18~~. AS 37.13.145 is repealed and reenacted to read:

19 DISPOSITION OF INCOME. (a) The earnings reserve account is established as a
20 separate account in the fund. Income from the fund shall be deposited by the corporation into
21 the account as soon as it is received. Money in the account shall be invested in investments
22 authorized under AS 37.13.120.

23 (b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve
24 account to the dividend fund established under AS 43.23.045 50 percent of the income available
25 for distribution under AS 37.13.140.

26 (c) After the transfer under (b) of this section, the corporation shall transfer from the
27 earnings reserve account to the principal of the fund an amount sufficient to offset the effect of
28 inflation on principal of the fund during that fiscal year. The corporation shall calculate the
29 amount to transfer to the principal under this subsection by

30 (1) computing the average of the monthly United States Consumer Price Index
31 for all urban consumers for each of the two previous calendar years;

1 (2) computing the percentage change between the first and second calendar year
 2 average; and
 3 (3) applying that rate to the value of the principal of the fund on the last day of
 4 the fiscal year just ended.

5 (d) Notwithstanding (b) of this section, income earned on money awarded in or received
 6 as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial
 7 District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that
 8 is tied to the outcome of this case, or interest earned on the money, or on the earnings of the
 9 money shall be treated in the same manner as other income of the Alaska permanent fund, except
 10 that it is not available for distribution to the dividend fund, and shall be annually deposited into
 11 the principal of the Alaska permanent fund.

*Amerada Hess language
 TO conform to SB213
 AND moved from page 9.
 Line 25.*

12 * Sec. ²⁰~~19~~. AS 37.13.150 is amended to read:

13 Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by the fund's
 14 [CORPORATION'S] investments must be identified as the source of the operating budget of the
 15 corporation in the state's operating budget under AS 37.07 (Executive Budget Act). The
 16 unexpended balance of the corporation's annual operating budget does not lapse at the end of the
 17 fiscal year but shall be treated as income under AS 37.13.140.

18 * Sec. ²¹~~20~~. AS 37.13.160 is amended to read:

19 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Committee may provide
 20 for an annual post audit and annual operational and performance evaluations of the fund's
 21 [CORPORATION'S] investments and investment programs.

22 * Sec. ²²~~21~~. AS 37.13.170 is amended to read:

23 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of each year, the
 24 board shall publish a report of the fund [CORPORATION] for distribution to the governor,
 25 legislature, and the public. The report shall be written in easily understandable language. The
 26 report must include financial statements audited by independent outside auditors, a statement of
 27 the amount of money received by the [ALASKA PERMANENT] fund from each investment
 28 during the period covered, a statement of investments of the fund [CORPORATION] including
 29 an appraisal at market value, a description of fund [CORPORATION] investment activity during
 30 the period covered by the report, a comparison of the fund [CORPORATION] performance with
 31 the intended goals contained in AS 37.13.020, an examination of the impact of the investment

1 criteria of this chapter on the fund [CORPORATION] portfolio with recommendations of any
2 needed changes, and any other information the board believes would be of interest to the
3 governor, the legislature, and the public. The annual income statement and balance sheet of the
4 fund [CORPORATION] shall be published in at least one newspaper in each judicial district. The
5 income statement and balance sheet for the two fiscal years preceding the publication of the
6 election pamphlet under AS 15.58 shall be included in that pamphlet.

7 * Sec. ²³~~22~~ AS 37.13.180 is amended to read:

8 Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund are [IS] exempt
9 from all taxes and assessments in the state. All security instruments issued by the corporation
10 or the fund, their transfer, and their income are exempt from all taxes and assessments in the
11 state.

12 * Sec. ²⁴~~23~~ AS 37.13.190 is amended to read:

13 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the corporation or the fund
14 may not be used to finance or influence political activities.

15 * Sec. ²⁵~~24~~ AS 37.13.210 is amended by adding a new paragraph to read:

16 (3) "fund" means the Alaska permanent fund established under art. IX, sec. 15,
17 Constitution of the State of Alaska.

18 * Sec. ²⁶~~25~~ AS 43.23.025(a) is amended to read:

19 (a) By October 1 of each year the commissioner shall determine the value of each
20 permanent fund dividend for that year by

21 (1) determining the total amount available for dividend payments, which equals

22 (A) the amount of income of the Alaska permanent fund transferred to the
23 dividend fund under AS 37.13.145(b) [AS 43.23.045(b)] during the current year;

24 (B) plus the unexpended and unobligated balances of prior fiscal year
25 appropriations that lapse into the dividend fund under AS 43.23.045(d);

26 (C) less the amount necessary to pay dividends from the dividend fund in
27 the current year under AS 43.23.055(3) and (7);

28 (D) less the amount necessary to pay dividends from the dividend fund
29 due to eligible applicants who, as determined by the department, filed for a previous
30 year's dividend by the filing deadline but who were not included in a previous year's
31 dividend computation;

1 (E) less appropriations from the dividend fund during the current year,
 2 including amounts to pay costs of administering the dividend program and the hold
 3 harmless provisions of AS 43.23.075;

4 (2) determining the number of individuals eligible to receive a dividend payment
 5 for the current year; and

6 (3) dividing the amount determined under (1) of this section by the amount
 7 determined under (2) of this section.

8 * Sec. ²⁷~~26~~. AS 37.13.145(d), added by sec. ¹⁹~~18~~ of this Act, is repealed on the day that the revisor of
 9 statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that,
 10 in the absence of AS 43.23.045(e), repealed by sec. ²⁸~~27~~ of this Act, or AS 37.13.145(d), added by sec.
 11 ¹⁹~~18~~ of this Act, no judge or juror is disqualified from serving as judge or juror solely because the judge
 12 or juror may qualify to receive a permanent fund dividend.

13 * Sec. ²⁸~~27~~. AS 43.23.045(b) and (e), and sec. 4, ch. 18, SLA 1991, are repealed.

14 * Sec. ²⁹~~28~~. This Act takes effect July 1, 1992.

* IF AMND. * 4 (Page 3, Line 1) IS ADOPTED, BILL SECTIONS
 7-29 BECOME SECTIONS 8-30.

* AMND. * 1:
 REVISOR TO
 REFLECT NEW
 SEC. 1

AMENDMENT #1

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M
Cook, 2/5/92

Page 1, after line 3:

Insert the following new bill section to read:

"**Section 1.** AS 36.30.850(b)(16) is amended to read:

(16) a contract that is a delegation, in whole or in part, of investment powers or fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;"

Page 1, line 4:

Delete "**Section 1.**"

Insert "**Sec. 2.**"

Renumber the following bill sections accordingly.

Page 4, line 22:

Delete "AA"

Insert "A"

Page 4, after line 24:

Insert "provided that not more than 10% of the total investments of the Fund are invested in "A" corporate debt securities."

Page 7, line 28:

Delete "and debt securities under (g)(7) [(g)(8)] and (14) ["

Insert "[AND DEBT SECURITIES] under (g)(14) [(g)(8) AND]"

AMENDMENT #1 (cont.)

Page 12, line 8:

Delete "sec. 18"

Insert "sec. 19"

TO CONFORM TO SECTION
RENUMBERING

Page 12, line 10:

Delete "sec. 27"

Insert "sec. 28"

Page 12, line 11:

Delete "sec. 18"

Insert "sec. 19"

RATIONALE: Amendment #1 is recommended by the Permanent Fund Corporation to make three technical revisions dealing with Corporation investment management contracts, investment bond ratings and percentages of investment allocations.

Currently, contracts by firms that invest money for the Permanent Fund Corporation are exempt from the state procurement code. A new **section 1.** is added by this amendment to amend AS 36.30.850(b)(16) to extend that exemption to other firms with similar fiduciary relationships, such as real estate consultants, the Fund's custodian, the manager search advisor and the asset allocation advisor.

AS 37.13.120(g)(7) is amended to allow the Fund to invest in "A" or better corporate bonds instead of "AA" or better--**provided that not more than 10% of the total investments of the Fund are invested in "A" corporate debt securities.**

AS 37.13.120(i) is amended to remove domestic corporate debt securities (bonds of U.S. corporations) from the combined 50% asset allocation limit now in place. At present, U.S. corporate stocks and all non-U.S. investments **and** U.S. corporate bonds are limited to not more than 50% of the Fund's investments. Last March, the Board of Trustees adopted asset allocation targets of 30% for U.S. stock and 10% for non-domestic stock. Having U.S. corporate bonds (currently 10.16% of the Fund) included in the limitation makes it legally impossible to meet this goal.

AMENDMENT # 2

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\AM
Cook, 2/5/92

Page 2, line 7:

Delete "on the day"

Insert "[ON THE DAY] within three banking days that"

RATIONALE: The Department of Revenue, Treasury Division has indicated that it is unrealistic to expect a single day transaction period for the deposit of the appropriate percentage of mineral lease rentals, royalties, bonuses etc. from the Department of Natural Resources through the Department of Administration, to the Department of Revenue and then the Alaska Permanent Fund. Treasury believes three banking days are sufficient to complete deposits.

AMENDMENT # 3

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M
Cook, 2/5/92

Page 2, line 7:

Delete "\$5,000,000"

Insert "\$3,000,000"

RATIONALE: The Treasury Division estimates that lowering the amount that triggers a payment from 5 to 3 million will result in approximately \$20,000 per year in extra interest earned. Treasury staff also believes that cost to initiate additional payment requests would be "insignificant."

AMENDMENT # 4

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M
Cook, 2/5/92

Page 3, after line 1:

Insert the following new bill section to read:

***Sec. 6.** AS 37.13.080 is amended to read:

Sec. 37.13.080. QUORUM AND VOTING. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. Action may be taken only upon affirmative vote of a majority of the full membership of the board."

Renumber the following bill sections accordingly.

RATIONALE: The Permanent Fund Board recently amended their by-laws to allow action to be taken upon a vote of three of the six members. Some legislators have expressed concern that only half the board members would need to act to establish board policy. This amendment will require that four of the six board members vote to initiate action.

ALASKA STATE LEGISLATURE



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CO-CHAIR

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Senator Pat Pourchot

Memorandum:

To: The Honorable Dave Donley, Chairman of the House
Judiciary Committee, and members.

From: Senator Pat Pourchot

RE: CSSB 39 Relating to the Permanent Fund

Date: February 3, 1992

This legislation is the result of a 1990 Senate State Affairs Committee study of Permanent Fund statutes and represents a compilation of recommendations from the Office of Management and Budget, the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Directors.

Substantive Provisions: reflecting current practices.

- Requires that interest earned on litigation revenue be treated as a deposit to the Permanent Fund
- Requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP

Housekeeping Provisions:

- Cleans up inconsistencies in use of the words "corporation" v. "fund"
- Adjusts the list of allowable investments to reflect current investment markets
- Establishes a timeline for transfer of royalty and lease income from DNR to the Permanent Fund.

CSSB 39 Summary Senator Pourchot

CSSB 39 (FIN), "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."

Office of Management and Budget research, the final report of the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Trustees have all identified several needed clarifications of statutory intent to ensure the legality of current Corporation practices. **Senate Bill 39** cleans up many of the inconsistencies, ambiguities and other confusing provisions currently in statute.

Language Consistency:

In statute, the terms "Alaska Permanent Fund" and "Alaska Permanent Fund Corporation" are used inconsistently. The first term should refer to assets owned by the State of Alaska, and the second term should refer only to the government instrumentality created to manage and invest those assets. The proposed legislation modifies AS 37.13.010 - AS 37.13.210 to use these terms correctly and consistently.

Adjustments to the Legislated List of Investments:

The Corporation is limited to investments of the types specified in statute. Unfortunately, this list has not been updated to reflect the present state of financial markets. **Section 10** of SB 39 makes it possible for the Corporation to take advantage of investment opportunities in "AA" rated or better municipal and state bonds. This section also provides specific authorization for investments in money market instruments.

Deleted is the reference to readily available secondary markets for certificates of deposit of Alaskas savings and loan associations, mutual savings banks and credit unions because such markets do not exist. Reference to state-chartered savings and loan associations in Alaska is deleted because such S&Ls do not exist.

Inflation-proofing Deposits:

Money is added to the principal of the Fund once a year to offset the loss of value of the principal due to inflation. Inflation-proofing monthly deposits to the principal from mineral lease royalties and rents could be a very complex task if each deposit were inflation-proofed at a different rate depending on when during the year it was added to the Fund. To ensure that the simplest, most conservative

method of inflation-proofing is used, **Section 18** of this legislation mandates that all deposits to the principal of the Fund shall be inflation-proofed at the full annual rate. This change in statute conforms to the current practice of the Corporation.

Litigation Revenue:

Treating all interest received as contributions to principal is the course of action currently being used by the Corporation, but is not statutorily mandated.

Section 1 of the proposed legislation ensures that all interest on the Fund's share of any settlements or awards will be transferred to the Fund, and that both the original amount due the Fund and any interest it has garnered shall be counted as deposits to the principal of the Fund. This represents the most conservative approach to this question. It adds the greatest amount possible to the principal of the Fund and prevents unpredictable and destabilizing surges in the Corporation's earnings.

Timely Transfers from DNR:

Current law mandates the transfer of funds due the Fund from royalty and lease income from the Department of Natural Resources on a monthly basis. During the thirty-day period between transfers DNR can accumulate sizable balances of monies that will eventually be transferred to the Fund. During recent months of exceptionally high oil prices and high production these monthly transfers have been as high as \$55 million, (November of 1990).

Section 2 of this proposal changes the process so that the Fund receives a transfer whenever \$5 million dollars owed the Fund accumulates at DNR or once a month, whichever is sooner. This will allow the Fund to gain the greatest possible benefit from the monies that have been constitutionally and statutorily dedicated for that purpose.

CSSB 39 (FIN) Bill History

2/13/91 **Senate Labor and Commerce CS.** Adopted five sponsor amendments: 1. eliminated gender bias by substituting "prudent-investor" for "prudent-man." 2. clarified the calculation of "net income" to include income of the earnings reserve account as well as income of the principal. 3. brought dividend program language into the Permanent Fund statutes, thus consolidating all the uses of the income into one section. 4. conforming amendment to bring revenue statutes into compliance with the new placement of the dividend program language. 5. repealed the section where the dividend program was previously placed.

5/6/91 **Senate Judiciary CS.** Adopted two amendments upon recommendation of Legislative Budget and Audit: 1. deleted references to readily available secondary markets and state-chartered savings and loans because they do not exist. 2. clarified the corporations authority to manage other funds like the Science and Technology Foundation.

5/13/91 **Senate Finance CS.** Adopted sponsor's amendment that clarified language requiring that interest earned before the state receives litigation revenue is to be treated as Permanent Fund principal.

5/16/91 **Floor Vote:** Yea, 16 Nay, 0 Absent, 4. Effective date same as passage, transmitted to the House.

HOUSE ACTION:

5/17/91 **First Reading, Referrals--**Judiciary, Finance.

2/3/92 **House Judiciary**

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



Senator Pat Pourchot

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Memorandum:

To: The Honorable Dave Donley, Chair
House Judiciary Committee

From: Senator Pat Pourchot *Pat*

RE: Hearing Request for CSSB 39

Date: November 27, 1991

I am writing to request a Judiciary Committee hearing on CSSB 39 at your earliest convenience once the Legislature convenes for 1992.

CSSB 39 is in large part a housecleaning measure designed to clarify language in the permanent fund investment section of the statutes. The two more substantive sections of the bill relate to the treatment of interest earned on litigation revenue and the method in which the fund is inflation-proofed (Section 1 and Section 18, respectively). In short, Section 1 requires that interest earned on disputed oil taxes and royalties be deposited in the fund and Section 18 requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP.

The legislation received wide-spread support during its preparation and the public hearing process. Many of the "housekeeping" measures are taken from the recommendations of the Commission on the Future of the Permanent Fund and the OMB Division of Policy report, "Permanent Fund Policy Issues." In addition, the Permanent Fund Corporation Board of Directors and the Legislative Budget Audit Committee are supportive of the investment procedure clarifications outlined in the bill.

I have attached back-up materials for your information and would be happy to answer any questions you may have regarding the legislation.

Memorandum:

To: Senate Members
From: Senator Pat Pourchot
RE: CSSB 39 Relating to the Permanent Fund
Date: May 16, 1991

This legislation is the result of Senate State Affairs Committee study of Permanent Fund statutes and represents a compilation of recommendations from the Office of Management and Budget, the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Directors.

Substantive Provisions:

- requires that interest earned on litigation revenue be treated as a deposit to the Permanent Fund
- requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP

Housekeeping Provisions:

- cleans up inconsistencies in use of "corporation" v. "fund"
- adjusts the list of allowable investments to reflect real market
- establishes a timeline for transfer of royalty and lease income from DNR to the Permanent Fund

Sources of Recommendations:

- Report of the Commission on the Future of the Permanent Fund
- Division of Policy report, "Permanent Fund Policy Issues"
- Alaska Permanent Fund Board of Directors