

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8979 SENATE RESOURCES

SB

257

SENATE COMMITTEE REF RT
First Committee of Referral

DATE: 2/2/96

FURTHER: Judiciary

Date of 5-Day Notice: 2-15-96
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-19-96

The Resources Committee considered SB 257

Relating to the taking of game or fish for public safety purposes.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR^o _____

SIGNING DC PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>					
<i>[Signature]</i>		<i>Recommend regulations address "local authority" when no other dept. auth. present. i.e. VFSO, w. (b)(5) provided.</i>			
<i>[Signature]</i>					
<i>[Signature]</i>					
CHAIR <i>Loren J. Lerman</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
DFG	2/1/96	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

CITY OF HAINES**TRANSMITTAL PAGE**

P.O. Box 1049
Haines, AK 99827

Phone: 907 766 2231
FAX: 907 766 3179

TO: TOM PANAMAROFF
Senator Zharoff's Office
FAX 907 463 3043

FROM: Tom Healy, City Administrator *TH*

RE: Bear Problems

DATE: 10/5/95

Number of pages VIA FAX: 10

REMARKS:

As I mentioned, attached is documentation of the City's attempts to resolve jurisdictional issues involving problem bears.

The dilemma we were in was that the troopers said that bears inside the City were the City's problem, but the City was reluctant to handle problem bears because of possible criticism or investigation by the troopers. We resolved this by having the troopers agree to assist as they were able on animal calls in the City and by stressing in policy the need to communicate with the troopers if an animal problem occurred in the City.

If you have any questions about this, our police chief Charlie Fannon (907 766 3121) can respond.



CITY OF HAINES, ALASKA

P.O. BOX 1049

HAINES, ALASKA 99827

(907) 766-2231 • TOURISM (907) 766-2234 • FAX (907) 766-3179

COPY

June 8, 1993

Commissioner Richard Burton
State of Alaska
Department of Public Safety
P.O. Box 111200
Juneau, AK 99811-1200

Re: Bear Problems

Dear Commissioner Burton:

A problem has come up this year that I understand may be partly due to directives from your office. State of Alaska, Department of Public Safety and Fish and Wildlife personnel tell us that brown and black bears inside our city limits are a local public safety issue and the responsibility of the municipality's police department. They refuse to respond to calls inside the City.

As the Mayor of the City of Haines, I feel that if a bear is within the Haines City limits and is around the public, then it becomes a danger to the public. I am therefore notifying you that I am ordering the Haines City Police to destroy any bear that they find inside the City limits and in close proximity to people.

I feel that it is really the Fish and Wildlife officer's job to handle bear problems, whether they exist inside or outside a municipality's boundaries. Fish and Wildlife and/or Fish and Game are quick to assist in cities such as Juneau or Anchorage, but in Haines they will not even respond.

We recently had a police officer destroy a brown bear which was endangering the public. That officer is now being charged with improperly killing the bear.

If you want us to handle bear problems as public safety situations, then allow us to do so without the threat of being charged for violating Fish and Wildlife statutes. We cannot wait until a bear problem is so out of hand that human lives are threatened.

June 8, 1993
Commissioner Burton
Re: Bear Problems
Page 2

Like you, when we hire a police officer, we expect that officer to use common sense and good judgement, with his first concern being public safety. The State of Alaska must assist and work with us, not tie our hands and endanger our citizens. Someone must protect the citizens of the City. If your department will not, we must be allowed to take on that responsibility.

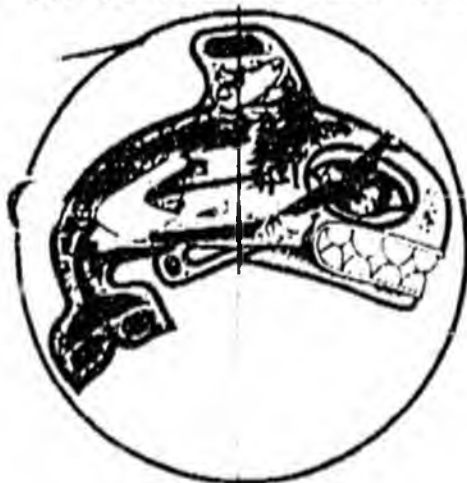
Sincerely,



Frank L. Wallace
Mayor
CITY OF HAINES

FLW/SVJ

cc: Governor Mickel
Senator Zharoff
Representative Mackie
Fish & Game
Haines City Police



HAINES POLICE DEPARTMENT CITY OF HAINES, ALASKA

P.O. BOX 1049
HAINES, ALASKA 99827
(907) 766-2121

June 18, 1993

Lewis Monedraz
Assistant District Attorney
First Judicial District
Box 110300
Juneau, AK 99811

Dear Lewis,

RE: INFORMATIONAL - BEAR SHOOTING - 93-1148

(On June 06, 1993, Sgt Sam Smith shot a bear which he felt was a danger to the community of Haines.

Back in July of 1992, we were notified by Trooper Don Otis that we would not be getting a replacement Fish & Wildlife Officer. Fish & Wildlife Officer Carpenter had transferred out of Haines and the State of Alaska decided not to fill the Fish & Wildlife vacancy.

Since that time the Haines Police Department has been verbally told by Trooper Otis that moose and bear calls inside the city limits are a public safety issue and therefore the responsibility of the Haines City Police.

During March and April of 1993 I had several discussions with Trooper Otis in the presence of other members of the Haines Police Department. The nature of these discussions was that I insisted that on wildlife calls inside the city I had the right to expect a Trooper to respond and take care of the problem. Trooper Otis flatly stated that he would not respond, because wildlife calls inside the city were our responsibility. One statement was, "you can call me, but I will not respond."

(On May 26, 1993, there was a moose/vehicle accident on Haines Hwy next to Spruce Grove Trailer Park. This is inside the City limits. The moose had a disabling injury. Trooper Otis was called and a request was made for Trooper Atkinson's phone number so that he could be notified to come and make a

THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL

LEWIS MORGENTHAU

BEAR SHOOTING 03 1148

Page 05

... about shooting the moose or leaving it trapped. Trooper Orie ...
... that we did not need Atkinson's phone number, he ...
... further advised me to shoot the moose and give the meat to the Rainbow ...
... I have since learned from Trooper Atkinson that if the moose ...
... was able to make it off the roadway then, "nature should be allowed to take ...
... its course." In this case we obeyed the Trooper and killed the moose. This ...
... was a judgment call. I do not think it was wrong, however, it is obvious ...
... that it would of been handled differently by Trooper Atkinson.

The Haines Police Department had been told by the local Trooper that it is ...
... our responsibility to handle wildlife calls inside the city. On June 06, ...
... 1993, at around 2:30 a.m. Sgt Sam Smith made a judgement call about a Brown ...
... Bear which had returned to leave the area, had demonstrated his lack of fear ...
... of people, was presenting danger to the residents (especially children) of ...
... the area and it had also shown its willingness to destroy private property. ...
... Sgt. Smith decided to destroy this bear because it was a definite threat to ...
... the people who lived in that area.

Sgt. Smith's actions clearly indicate his concern for the public's safety. ...
... the first couple of times the bear showed itself, Sgt. Smith called the on- ...
... duty officer, with the arrival of the patrol vehicle the bear would go into ...
... the forest which borders Smith's yard. When the patrol vehicle would leave ...
... then the bear would return. Finally Sgt. Smith had the on-duty officer give ...
... the name shotgun slugs. When the bear returned after the fourth or fifth ...
... time Sgt. Smith notified the police dispatcher that he was going to have to ...
... kill the bear and would be firing a shot. Sgt. Smith then shot the bear.

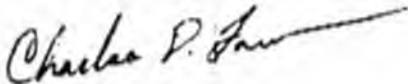
I would much rather that a State Trooper had come and made the judgement ...
... call, than the state of Alaska could be responsible for the liability ...
... problem which would arise from not killing the bear. It that were the ...
... decision, this bear had been hanging around the area for about two weeks. ...
... When there were two many bears hanging around Angoon a few weeks ago, the ...
... State Fish and Wildlife Trooper gave the city five permits to get rid of some ...
... of those bears. If I would of known it was possible to acquire such a ...
... permit, I would of applied for it. When we did ask for help from the state, ...
... we were told that it was not their problem, but that it was a public safety ...
... matter and we would have to handle it ourselves.

I think that if the state called on to take care of a problem, then the state ...
... forfeits the responsibility for that problem. I also maintain that it is ...
... important and detrimental for state responsibility for state responsibility of the ...
... environment to step in and re-define the problem for the purpose of making a ...
... decision. It is important to define the issue as a public safety problem and then ...
... to define the problem as a fish and wildlife problem once the public ...
... safety problem is solved. It is also important to say that a brown bear is a ...
... public safety problem just to give a State Agency a few dollars of overtime ...
... pay, forcing a municipal agency to deal with the issue.

Lewis Menendez
INFORMATIONAL - BEAR SHOOTING - 93-1148
Page 03

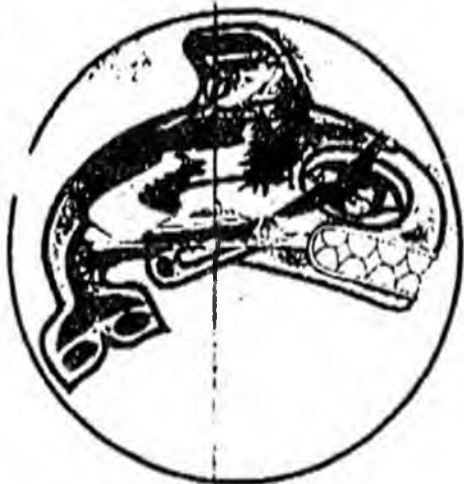
Since this incident has come to the attention of authorities outside of our community, I feel that it is finally being addressed properly. On June 15, 1991 I had a meeting with Lt. Lown, Sgt. Russel and Trooper Atkinson. Out of that meeting came a verbal agreement that we would be receiving assistance in the future on wildlife calls within the Haines city limits. We will work it out on a case-by-case basis and the city will make copies of our response cards so that Trooper Atkinson will be aware of what is transpiring.

Sincerely,



Charles D. Fannon
Chief of Police

cc: Commissioner of Public Safety
Lt. Lown



**HAINES POLICE DEPARTMENT
CITY OF HAINES, ALASKA**

P.O. BOX 1049
HAINES, ALASKA 99827
(907) 766-2121

May 10, 1994

Dear Sir:

Attached is the Haines City Police Bear Policy. A lot of input has went into preparing this policy, however I am confident that as time goes by, revisions will be needed.

In the event that you see a needed change or addition, please feel free to contact me with your suggestions. I do not want this policy to become so complicated that it becomes useless and confusing. My hope is that future changes will make this policy more clear, concise and easily understood.

Sincerely,

Charlie Fannon
Chief of Pblico

cc: Mayor Combs
City Administrator
Visitor's Center
Distriqt Attorney
Alaska Fish & Wildlife
Alaska State Troopers

Effective Date:		Number:	
May 1, 1994		1.07.04	
Subject:			
BEAR POLICY			
Reference:		Special Instruction:	
5 AAC 92.410		None	
Distribution:	Reevaluation Date:	Number of Pages:	
All Personnel	May 1, each year or as needed	3	

I. PURPOSE

The purpose of this policy is to provide the Haines Police Department personnel guidelines for the proper handling of bear problems and incidents which may arise in the course of their duties.

II. DISCUSSION

It is the policy of the Haines Police Department to maximize public and officer safety through the use of some common sense guidelines. It is also recognized that no policy could hope to cover every situation which would involve a wild bear. It is hoped that a policy such as this would lend consistency to our response as individuals and as a department.

III. PROCEDURES

- A. Initial call - notify Fish & Wildlife and/or State Troopers.
 1. The on duty officer will respond and handle the problem.
 2. The dispatcher should gather as much information from the reporting party as possible. This should include answering questions such as who, what, when, where and why.
 3. Priorities at the scene are to protect the public, protect yourself and protect against property damage.
 4. It may entail protecting the bear from harassing dogs (dogs by state law are not allowed to harass wildlife).
 5. Be prepared with a shotgun with slugs. Do not shoot a bear with your pistol unless forced to do so because of imminent danger.

- B. Identify the Bear
 1. Is this a bear which we have had other problems with.
 2. Does the reporting party or any other witnesses know this bear from prior sightings.
 3. Is it a brown bear or black bear.
 4. Does it have cubs.
 5. Is it injured or possibly sick.

107.04 BEAR POLICY (continued)

- C. Assess the Danger
1. Has the bear hurt anyone - let the dispatcher know.
 2. Don't place yourself in danger unless there is a threat to life.
 3. Has the bear destroyed any property - notify dispatch.
 4. Are there children in the area - notify dispatch.
 5. If you have to shoot - what additional danger to the public might this create. Remember, if you put a bullet into flight, you are responsible for that action.
 6. Do you need back-up.
- D. Take appropriate action
1. If this bear is not a known "problem bear" you should consider attempting to scare it away with a seal bomb, vehicle siren, or a cracker shell.
 2. If it is messing with a dumpster or trash can, consider cap-stunning the trash container.
 3. If it appears to be leaving the area - let it go.
 4. If it is a bear which Fish and Wildlife has determined should be destroyed - get back-up to assist you if there is time. Make sure you notify dispatch that you are going to destroy the bear. Dispatch will then be aware that you need back-up and that the threat level to you will be increased.
 5. Do not take a questionable shot. If you cannot get a good shot - wait. If it is truly a bear which needs to be destroyed then other opportunities will arise.
 6. Consider public safety first, personal safety second, protection of property third and protection of the bear last.
 7. Notify the Chief of Police about the department destroying a bear.
- E. Follow-up
1. Whatever the outcome of any incident - keep Fish & Wildlife informed. Put a copy of the SR Card or the report in the State Troopers box.
 2. Find out what draws bears to a certain area. If it is improperly stored trash, consider issuing a citation.
 3. Do you feel you need more training with a shotgun. Notify the Chief of Police.
 4. It is the responsibility of each officer to know Alaska Statutes. Review SAAC 92.410 so that you will be more in tune with State of Alaska Law regarding the legal destruction of a bear which is a threat to life and/or property.
 5. Fill out any paperwork required by or stemming from your handling of a bear incident.
 6. Understand that there will almost always be some type of public backlash when a bear is destroyed. It is in the best interest of the police department and the officer to be able to fully justify the destruction of a bear.
 7. Finally, remember that any bear shooting will be investigated by the State of Alaska Fish and Wildlife Department. Our case will not be closed in a positive manner until their case is closed. All police department personnel will cooperate in assisting other state agencies as is our duty.

107.04 BEAR POLICY (continued)

F. Conclusion

1. Due to the problems in the past that have arisen when a bear has had to be destroyed, an agreement was made between the State and City. The State Fish and Wildlife Officer would respond to assist in dispatching problem bears, helping skin out a dead bear or try to determine what has drawn a bear into the area. It may not always be possible to get this assistance due to the nature of the Fish and Wildlife Officers job. If he is out of town or away at training then it is unreasonable to expect his assistance. This is why we need to be familiar with 5 AAC 92.410.
2. Any questions or suggestions which may arise in the use of this policy should be directed to the Chief of Police so that he can consider any revisions which may be necessary.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, ALASKA 99802-5526
PHONE: (907) 465-4100
FACSIMILE: (907) 465-2332Jan 16
February 15, 1996The Honorable Fred Zharoff
Alaska State Senate
State Capitol, Room 121
Juneau, AK 99801-1182

Dear Senator Zharoff:

At the fall Board of Game meeting, you asked the board to consider how wildlife/human interactions, and particularly bear/human conflicts, could be better resolved in those communities and areas of the state where department personnel are unavailable. As a first step in addressing this problem, I have invited Commissioner Otte of Public Safety to discuss ways of authorizing Village Public Safety Officers and other enforcement personnel to handle wildlife problems within their jurisdictions.

As was discussed at the board meeting, the department and board may lack statutory authority to issue permits (or otherwise delegate authority) on matters related to public safety. At the fall 1994 board meeting, the board adopted a regulation authorizing the department to issue "permits to control nuisance wildlife." The purpose of the regulation was to clarify the department's authority to issue permits for such purposes as controlling nuisance beavers and taking migratory birds at airports to safeguard arriving and departing aircraft. The board also adopted a regulation that would require commercial wildlife exhibitors to carry liability insurance. The Department of Law questioned the authority of the board to regulate solely on the basis of public safety, and recommended that those regulations be deferred and reconsidered.

The authority for other public safety regulations has also been questioned. Those regulations include the requirement for persons under 16 to have hunter safety training before hunting without an adult on the Mendenhall State Game Refuge, the taking of wildlife in defense of life or property, and provisions for taking nuisance beavers under a permit. The department also issues "depredation" permits to airports around the state. The need to take birds and other game at airports to ensure public safety was underscored by the tragic loss of an AWACS plane at Elmendorf AFB last fall.

I agree with the board that statutory clarification is preferable to inventing a rationale on which to base public safety regulations that deal with wildlife. Not only would a statutory amendment support our existing public safety/property damage regulations, but it could provide the basis for empowering VPSOs to help resolve human/wildlife conflicts in remote communities.

The Honorable Fred Zharoff

2

February 15, 1996

At the fall board meeting you offered to help with this matter. A comprehensive statutory solution would be to amend three statutes, as follows. Amend AS 16.05.255(a) (Regulations of the Board of Game) by inserting: "The Board of Game may adopt regulations it considers advisable in accordance with AS 44.62 for . . . (3) establishing the means and methods employed in the pursuit, capture, and transport of game, including regulations, consistent with public safety and welfare, and resource conservation and development goals . . ." and by adding: "(1) taking game to ensure public safety or to control or prevent damage to property." Amend AS 16.05.050(6) (Powers and duties of the commissioner) by inserting: "(6) to take, capture, propagate, transport, buy, sell, or exchange fish or game or eggs for propagating, scientific, [OR] stocking, or public safety purposes." We have discussed this wording with the Department of Law and believe these amendments would provide concrete authority for existing regulations and activities. The department and the board would support this or some similar clarification of statutory authority. If we can provide any assistance in this matter, please let me know.

Sincerely,

Frank Rue
Commissioner

cc: Pat Pourchot, Legislative Director, Governor's Office
Wayne Reglin, Director of Wildlife Conservation
Kevin Saxby, Assistant Attorney General

bcc: Geron Bruce

FR/PK/pk

WC

JAN 26 1996

TO: Colonel Glenn Goarrey, Director
Alaska State Troopers

DATE: January 24, 1996
CONSERVATION DIVISION

Colonel John Glass, Director
Fish and Wildlife Protection

FILENAME:

TELEPHONE NO: 465-4322

FROM: Ronald L. *[Signature]*
Commissioner
Department of Public Safety

SUBJECT: Bear/Human Con-
flicts

Attached for your review is a request from Commissioner Frank Rue asking for our assistance in developing an acceptable protocol for bear/human conflicts in rural areas. He has identified Ken Taylor as his designee on this issue.

After you have reviewed the request from the Department of Fish and Game, please contact Mr. Taylor at 465-4192 and provide him with whatever resources, personnel, and assistance he may need in developing a workable policy for the state.

Attachment

cc: Frank Rue, Commissioner
Department of Fish and Game

Post-It™ brand fax transmittal memo 7671 # of pages 5

To: Annette Kretzger	From: Wayne Kuehlin
Co.	Co. ADF + G
Dept.	Phone #
Fax #	Fax #

STATE OF ALASKA


DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 25328
JUNEAU, AK 99802-5528
PHONE: (907) 465-4100
FAX: (907) 465-2332

MEMORANDUM

TO: Ronald L. Otte
Commissioner
Department of Public Safety

FROM: Frank Rue 
Commissioner

DATE: January 12, 1996

SUBJECT: Bear/Human Conflicts

At the October Board of Game meeting, Senator Zharoff asked the board and the department to help Alaskans living in small communities deal with problem brown bears. We do not want to wait until a comprehensive wildlife/human interaction plan is developed and implemented before addressing the immediate problems faced by many rural residents. When an animal places people in imminent danger, the regulation governing the taking of game in defense of life or property (5 AAC 92.410) would be in effect. I agree with the Senator, however, that citizens should not have to fear walking around their communities or going to the local landfill because of a nuisance or "problem" bear. The department is looking at ways to remove perceived threats before they become real.

One solution for villages that lack a department biologist or protection officer would be to enlist and train Village Public Safety Officers and other law enforcement officials in how to deal with problem bears. Specific authority could be delegated to VPSOs to destroy bears that pose real threats to the public. That authority would remove the concern of some residents about prosecution under 5 AAC 92.410. More importantly, it would encourage villagers to seek the VPSO for resolution of a problem rather than to take matters into their own hands. The outcome should be a more secure community environment, a reduction in the number of bears killed, and improved reporting of bears taken.

Permits could be issued to VPSOs either by department permit or cooperative agreement. A special permit issued by this department to you could authorize the delegation of authority to any named DPS employee (or position) to take game to safeguard public life and property. Alternatively, you or your delegate could issue permits directly, through a cooperative agreement developed between our departments.

Ken Taylor, Deputy Director of Wildlife Conservation, will be coordinating this effort for the department. I have asked him to work with you and your staff on this problem and develop an agreeable solution. Please let me know your feelings about this matter and who we should contact in your department. Thank you.

cc: Ken Taylor
Wayne Regelin

**DEPARTMENT OF FISH AND GAME
POSITION PAPER**

Bill No: SB 257

Sponsor: Senator Zharoff

Bill Title: Taking Fish or Game for Public Safety

Department Position: Support

Background/Legislative Intent: The department of law has questioned the board of game's authority to adopt regulations on the basis of public safety. This bill would provide clear statutory authority for existing regulations that deal with public safety issues.

Analysis of Bill/Program Effects: During the past year, the department of law has asked the board of game to withdraw adopted regulations dealing with public safety issues and has questioned the statutory authority for public safety regulations currently in effect. These regulations include 5 AAC 92.400 (emergency taking of game for food), 5 AAC 92.410 (taking game in defense of life or property), 5 AAC 92.510 (restrictions on taking game without completing a hunter safety course, e.g., unaccompanied minors under 16 in the Mendenhall State Game Refuge), 5 AAC 92.041 (permit to take beavers to control damage to property), 5 AAC 92.052 (some discretionary permit hunt conditions). Also questioned is authority for department personnel and other enforcement officers to legally take or destroy game in urban areas or villages when those animals pose a threat to the public welfare. Recent regulatory proposals adopted by the board, but deferred at the request of the department of law, would have (1) required commercial wildlife exhibitors to carry public liability insurance, and (2) authorized the department to issue "permits to control nuisance wildlife." That regulation would have codified the department's practice of issuing permits that authorize the taking of migratory birds at airports to safeguard arriving and departing aircraft.

Geison Bruce for Frank Rue

Commissioner of Fish and Game

2/16/96

Date



Senator Fred F. Zharoff

Alaska State Legislature

In Kodiak: P.O. Box 405, Kodiak, Alaska 99615 (907) 486-5259 (Fax also)

In Juneau: State Capitol, Room 121, Juneau, Alaska 99801-1182

Phone: (907) 465-3473 • Fax: (907) 463-3043

State Senate District C

Kodiak Island & Rural Southeast Alaska

Sponsor Statement

SB 257

"An Act relating to the taking of game or fish for public safety purposes"

I have introduced SB 257 to clarify the powers of the Department of Fish and Game and the Alaska Board of Game with regard to matters of public safety. The need for this legislation arose from meetings with ADF&G and the Board of Game regarding chronic bear/human conflicts in communities throughout my district.

Section 1 provides the commissioner of fish and game with the power to authorize the taking of fish and game for public safety purposes. This provides a mechanism for the department to work with remote communities on dealing with true "problem" wildlife that are causing unacceptable threats to public safety. With this authority, the department can work with the Village Public Safety Officer program and others to establish procedures for resolving serious conflicts.

Section 2 provides clarity to the Board of Game with regard to their powers to adopt regulations regarding public safety and welfare. The Department of Law has informed the board that they currently lack clear authority in this area, and asked them to defer the adoption of further regulations until the statutes are amended. Many current regulations are also in question with this interpretation by the Department of Law. These regulations range from authorizing the taking of wildlife in defense of life and property to the requirement of hunter safety training for juveniles prior to hunting in certain game refuges.

The passage of SB 257 will provide necessary tools to the Department of Fish and Game and the Board of Game to aid in public safety and welfare.

SB

262

SENATE COMMITTEE REI RT
First Committee of Referral

DATE: 2/2/96

FURTHER: Judiciary

Date of 5-Day Notice: 2-8-96
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-12-96

The Resources Committee considered SB 262

Relating to management of fish and game areas.

and recommends:

- be replaced with CS SB 262 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Wm. Keene</i>	<input checked="" type="checkbox"/>	<i>Tom Hoff</i>	<input checked="" type="checkbox"/>		
<i>Robert Taylor</i>	<input checked="" type="checkbox"/>				
<i>Paul Halford</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Loren D. Senne</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Dept. Wildlife Conservation</i>	<i>2/4/96</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

The Alaska Environmental Lobby is opposed to SB 262

SB 262 assumes "consumptive use of game is the highest and best use of game" and that game populations should be managed "solely..for maximum sustained yield by human harvest".

Legislative language of that sort is driven by competition to bag one's limit; not concern for the overall health of an ecosystem. Only a healthy ecosystem will be able to adequately sustain both game and non game populations for subsistence and recreational hunters; as well as for tourism and other nonconsumptive use.

SB 262 determines that if an area is closed to hunting or to a particular method of hunting...another area at least five times as large must be opened elsewhere. Potential conflicts from such a "one for five" swap effectively eliminate closure or a limit on methods from game managers' tool bags. That is more coercion than law.

SB 262 encourages individuals unhappy with a game management decision to "bring a civil action in a court of competent jurisdiction". It assures the potential plaintiff that if they prevail they are "entitled to recover the full, true, and actual costs of litigation, including 100% of actual attorney fees." The Bill further threatens: "A public official is not immune from suit".

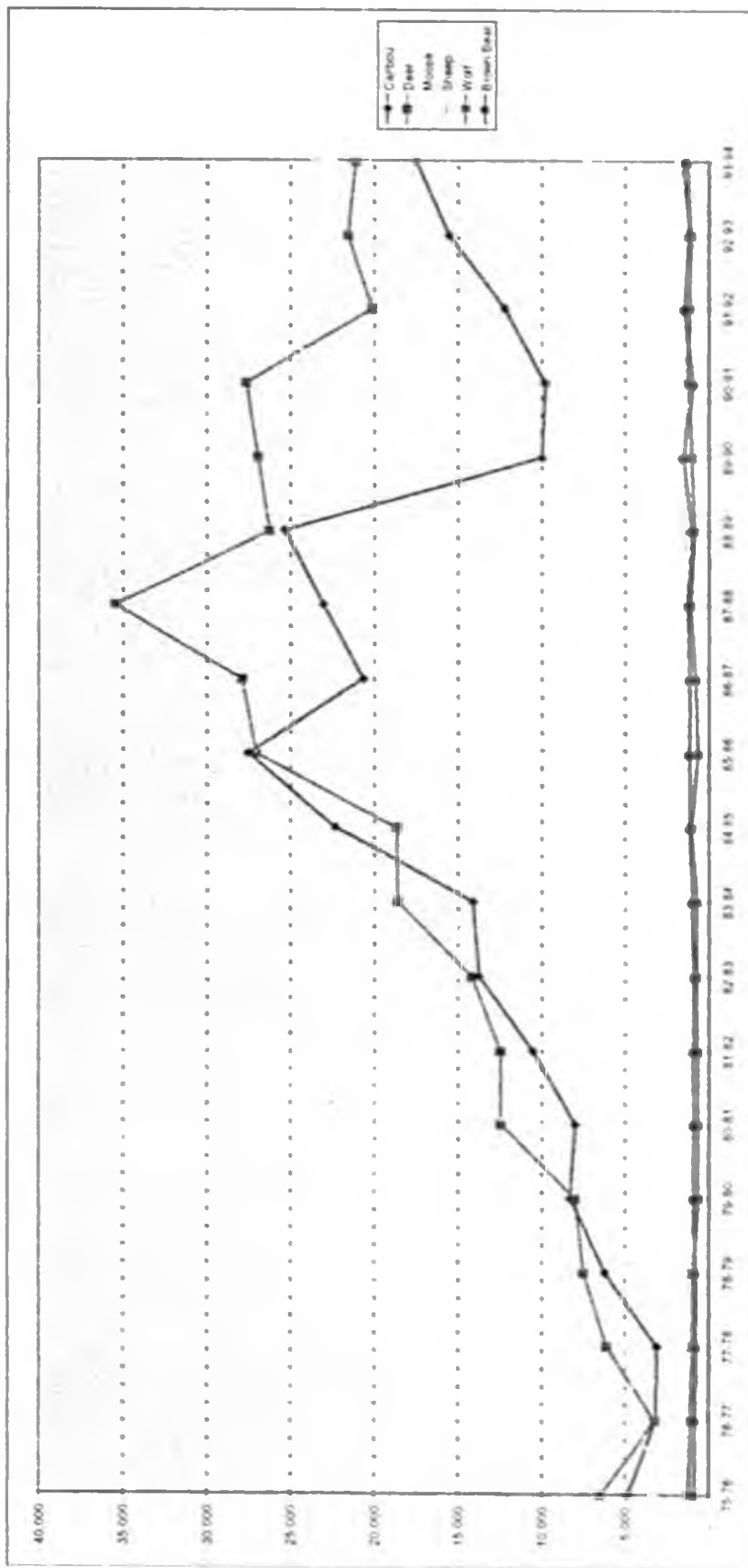
The subject matter of this bill-management of game populations-is a potentially divisive, emotional issue that begs for thoughtful, responsible leadership. In contrast, the tone and tenor of this legislation is angry and confrontational. Alaskans and Alaska's resources deserve better guidance than SB 262.

3/8/96



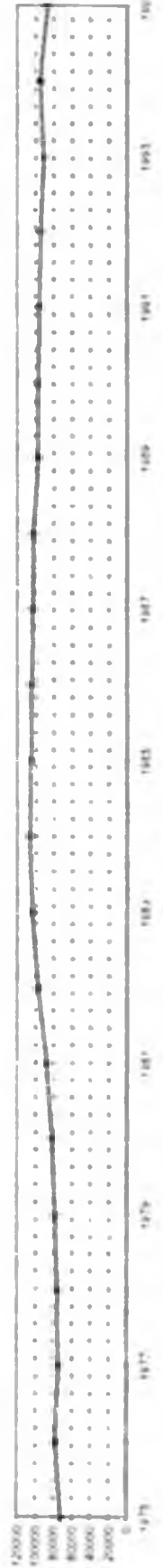
STATEWIDE BIG GAME SPORT HARVEST

	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	85-86	86-87	87-88	88-89	89-90	90-91	91-92	92-93	93-94
Caribou	4,660	3,192	3,111	6,200	6,200	6,000	10,538	13,701	14,110	22,354	27,545	20,650	23,075	25,351	9,907	9,784	12,270	16,539	17,510
Deer	6,466	3,200	6,111	7,500	6,000	12,420	12,478	14,180	18,009	18,650	27,058	27,884	35,429	20,248	20,954	27,648	20,152	21,555	21,147
Moose	3,206	4,087	5,145	5,171	4,352	4,500	5,909	5,333	7,374	7,689	6,377	7,571	7,141	7,685	7,257	6,070	7,060	6,277	7,286
Sheep	1,071	1,112	1,176	1,260	964	840	1,081	1,022	1,033	1,042	1,097	1,264	1,314	1,436	1,454	1,406	1,464	1,145	1,101
Wolf	1,243	1,078	917	905	643	607	600	754	745	1,054	609	800	1,009	800	1,017	1,175	1,165	1,051	1,583
Brown Bear	877	832	774	819	863	882	687	823	974	1,118	1,155	1,156	1,212	964	1,407	950	1,479	1,175	1,322



LICENSED HUNTERS

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Licensed Hunters	71,623	77,726	74,891	76,558	78,215	81,774	87,659	96,966	103,587	106,471	105,028	103,041	102,811	102,027	97,221	96,817	95,712	94,200	90,835	94,812	87,346
Population	364,100	459,800	418,000	411,600	413,700	419,800	434,200	464,200	490,100	524,000	543,900	550,700	541,300	538,000	538,900	533,174	549,283	587,328	597,868	636,278	615,900



FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 262

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Management of Fish/Game Population & Area BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Miller
 Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES						
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CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
---------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,025.7	1,025.7	1,025.7	1,025.7	1,025.7	1,025.7
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (1024 Fish & Game Fund)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)	(1,025.7)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary)

Assumptions: (1) The legislation will become effective at the beginning of FY97. (2) To maintain department services and programs at existing levels, General Funds will be provided to offset Fish & Game Fund and Federal Aid spending reductions for programs such as, nongame, wildlife education, watchable wildlife, endangered species, marine mammals, and the McNeil River, Stan Price and Walrus Islands State Game Sanctuaries.

Sec. 2 of the bill restricts utilization of federal aid and license/tag revenue in areas where game populations are subject to preferences among consumptive uses that are not valid under the state constitution or state law. Virtually all big game populations trespass on federal lands that are "subject" to subsistence preferences not valid under state law. Accordingly, a strict interpretation of this bill would preclude expending nearly all Fish & Game Fund and Federal Aid revenues on wildlife management programs. To maintain existing programs and services using that interpretation would require annual General Fund appropriations of approximately \$15,000.0.

Prepared by: Diana Ground, Administrative Officer
 Division: Wildlife Conservation
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game

Phone: 465-6194
 Date: 2/8/96
 Date: 2-12-96

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Alaska State Legislature

SENATOR

MIKE MILLER

Mailing Address:

119 N. Cushman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0862

Fax: (907) 488-4271

While in Office:

State Capitol

Juneau, Alaska

99801-1182

Ph: (907) 465-4976

Fax: (907) 465-3883

Senate

Senate District 0

Sponsor Statement SB 262

Since Statehood, Alaskans, whose sustenance and livelihood relies upon our wildlife resources, have lost over 100 million acres to consumptive uses in one form or another. This land mass is larger than the State of Wyoming. Additionally, Alaskan hunters have lost effective utilization of some of the most productive areas in the State through ever increasing restrictions on access. These restrictions are being adopted in lands which sportsmen themselves have helped set aside and whom exclusively pay for the maintenance, management and administration of these lands.

Because of increasing restrictions and the loss of available areas to hunt, Alaskans are currently taking less than 2% of the annual harvestable surplus of moose, caribou and sheep--compared to other states who routinely harvest 30-60% of their big game each year. Additionally, Alaskan hunters harvest of moose, caribou and sheep has declined over 30% between 1989 and 1993.

The Department of Fish and Game is funded 100% by sportsmen's dollars generated through license fees and self imposed taxes. This legislation recognizes that public trust and would allow for no net loss of land for Alaska's consumptive users. Additionally, it requires remediation of 5 acres for every acre lost in the future.

The legislation will also eliminate the spending of Fish and Game fund monies paid by consumptive users for any activity on lands where consumptive uses have been eliminated or restricted. By passing this legislation, the legislature will recognize the special public trust created by the use of license monies and will reverse the trend of restrictions on consumptive uses throughout Alaska.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 10, 1996

SUBJECT: Sectional Summary of SB 262: An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

TO: Senator Mike Miller

FROM: George Utermohle, *GU*
Legislative Counsel

You have requested a sectional summary of SB 262: An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05 by adding a new section (AS 16.05.005), relating to management of game. On most land in the state, game populations are to be managed solely on a biological basis for maximum sustained yield for human harvest. Consumptive use of game is the highest and best use of game. If the Department of Fish and Game, the Board of Game, or another state agency closes an area of the state for consumptive use of game for sport or subsistence use or closes an area of the state to taking of game for consumptive use by a method, manner, or means that was permitted in the area before the closure, the Board of Game shall open new areas where the consumptive uses that were prohibited can occur, unless the closure was due to a biological emergency. A person may bring an action to compel compliance with the provisions of this section or to remedy a violation of this section. If the person prevails in the action, the person is entitled to recover the full costs of the litigation. Key terms in this section are defined.

Section 2 of the bill amends AS 16.05 by adding a new section (AS 16.05.145), creating a public trust for fish and game management areas. The public trust is violated by restricting public access to fish and game management areas, restricting sport fishing, hunting, or trapping in fish and game management areas, or using license fees paid by sportsmen or certain federal funds in certain areas or for certain purposes. If the public trust is violated,

9-LS1431\G
Utermohle
3/8/96

CS FOR SENATE BILL NO. 262(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained yield
2 for human harvest and providing for the replacement of areas closed to
3 consumptive uses of game; relating to management of fish and game areas; and
4 amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil Procedure."

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

6 * Section 1. AS 16.05 is amended by adding a new section to read:

7 Sec. 16.05.005. MANAGEMENT OF GAME. (a) Notwithstanding any other
8 law to the contrary, game populations shall be managed solely on a biological basis.
9 In areas where human harvest has been found to be an important use of game, game
10 populations in those areas shall be managed for maximum sustained yield by human
11 harvest. Consumptive use of game is the highest and best use of game. This section
12 does not apply on land designated as a park or a state game sanctuary where
13 consumptive use of game is prohibited.

14 (b) If the department, the Board of Game, or other agency of the state, closes

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev 698

Central Microfilm Services
Department of Education
State of Alaska

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 10, 1996

SUBJECT: Sectional Summary of SB 262; An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

TO: Senator Mike Miller

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 262; An Act relating to management of game populations for maximum sustained yield for human harvest and providing for the replacement of areas closed to consumptive uses of game and relating to management of fish and game areas.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 16.05 by adding a new section (AS 16.05.005), relating to management of game. On most land in the state, game populations are to be managed solely on a biological basis for maximum sustained yield for human harvest. Consumptive use of game is the highest and best use of game. If the Department of Fish and Game, the Board of Game, or another state agency closes an area of the state for consumptive use of game for sport or subsistence use or closes an area of the state to taking of game for consumptive use by a method, manner, or means that was permitted in the area before the closure, the Board of Game shall open new areas where the consumptive uses that were prohibited can occur, unless the closure was due to a biological emergency. A person may bring an action to compel compliance with the provisions of this section or to remedy a violation of this section. If the person prevails in the action, the person is entitled to recover the full costs of the litigation. Key terms in this section are defined.

Section 2 of the bill amends AS 16.05 by adding a new section (AS 16.05.145), creating a public trust for fish and game management areas. The public trust is violated by restricting public access to fish and game management areas, restricting sport fishing, hunting, or trapping in fish and game management areas, or using license fees paid by sportsmen or certain federal funds in certain areas or for certain purposes. If the public trust is violated,

Senator Mike Miller
February 12, 1996
Page 2

the state must provide five times the amount of land for unrestricted sport fishing, hunting, or trapping activities to replace the land on which the trust was violated. A person may bring an action to compel compliance with the provisions of this section or to remedy a violation of this section. If the person prevails in the action, the person is entitled to recover the full costs of the litigation. Key terms in this section are defined.

Section 3 of the bill amends the purposes for which state game refuges are established.

Section 4 of the bill amends AS 16.20.075 to require the Board of Game to adopt regulations guaranteeing access to state game refuges and continued opportunities for sport fishing, hunting, and trapping on state game refuges.

Section 5 of the bill adds a new section to AS 16.20 relating the purposes for which state range areas are established.

Section 6 of the bill amends AS 16.20.500 to amend the purposes for which fish and game critical habitat areas are established.

Section 7 of the bill amends AS 16.20.510 to require the Board of Fisheries and Board of Game to adopt regulations guaranteeing access to fish and game critical habitat areas and continued opportunities for sport fishing, hunting, and trapping on critical habitat areas.

Section 8 of the bill amends AS 16.20 by adding a new section containing a definition of "maximum sustained yield" for purposes of AS 16.20.

Section 9 of the bill states that certain provisions added by secs. 1 and 2 of the bill have the effect of amending certain rules of civil procedure adopted by the Alaska Supreme Court by allowing a person to recover the full, true, and actual costs of bringing and prosecuting an action authorized under those sections of the bill.

Section 10 of the bill provides that the provisions (amending court rules) described in sec. 9 of the bill do not take effect if they are not approved by two-thirds majority vote of each house as required by the Constitution of the State of Alaska.

If I may be of further assistance, please advise.

GU:klb:glc
96-094.klb

9-LS1431NG
Ute mohle
3/8/96

CS FOR SENATE BILL NO. 262(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained yield
2 for human harvest and providing for the replacement of areas closed to
3 consumptive uses of game; relating to management of fish and game areas; and
4 amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil Procedure."

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

6 * Section 1. AS 16.05 is amended by adding a new section to read:

7 Sec. 16.05.005. MANAGEMENT OF GAME. (a) Notwithstanding any other
8 law to the contrary, game populations shall be managed solely on a biological basis.
9 In areas where human harvest has been found to be an important use of game, game
10 populations in those areas shall be managed for maximum sustained yield by human
11 harvest. Consumptive use of game is the highest and best use of game. This section
12 does not apply on land designated as a park or a state game sanctuary where
13 consumptive use of game is prohibited.

14 (b) If the department, the Board of Game, or other agency of the state, closes

1 an area to the taking of a game species for consumptive use for subsistence or sport
2 uses, or closes an area to the taking of a game species for consumptive use by a
3 method, manner, or means that was permitted in the area before the closure, the Board
4 of Game at its next regularly scheduled meeting after the closure shall open a new area
5 or areas where the consumptive uses that were prohibited can occur and where healthy
6 populations of the affected game species are present. The new area or areas opened
7 by the board shall be at least three times larger than the area that was closed. This
8 subsection does not apply to a temporary closure based upon a biological emergency.

9 (c) A person may bring a civil action in a court of competent jurisdiction
10 against a state agency or a public official for an injunction to compel compliance with
11 this section or to compel remedial action to correct a violation of this section. A
12 public official is not immune from suit under this section.

13 (d) A person who brings an action to enforce this section and who prevails in
14 the action is entitled to recover the full, true, and actual costs of litigation, including
15 100 percent of actual attorney fees.

16 (e) In this section,

17 (1) "harvestable surplus" means the estimated number of animals that
18 is equal to the number of offspring born in a game population during a year less the
19 number of animals in the population that die during the year from all causes other than
20 predation or human harvest;

21 (2) "highest levels of human harvest" means the harvest of greater than
22 one-third or more of the harvestable surplus of a game population by humans;

23 (3) "maximum sustained yield" means the achievement and
24 maintenance in perpetuity of the highest levels of human harvest on an annual basis
25 of game, other than mammalian predators.

26 * Sec. 2. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.145. PUBLIC TRUST FOR SPECIAL FISH AND GAME
28 MANAGEMENT AREAS. (a) The state has created a public trust by the use of
29 revenue generated from taxes, license fees, and other fees paid by sportsmen, by the
30 acceptance and use of funds received from federal aid in sport fish and wildlife
31 restoration programs, and by the establishment of state game refuges, range areas.

1 special management areas, critical habitat areas, and similar areas established by law.

2 (b) This public trust would be breached by

3 (1) restricting public access to state game refuges, range areas,
4 sanctuaries, special management areas, critical habitat areas, and similar areas
5 established by law;

6 (2) restricting fishing, hunting, and trapping activities and opportunities
7 on state game refuges, range areas, special management areas, critical habitat areas,
8 and similar areas established by law in a manner that is inconsistent with maximum
9 sustained yield of fish and game; or

10 (3) utilization of the revenue generated from taxes, license fees, and
11 other fees paid by sportsmen or funds received from federal aid in sport fish and
12 wildlife restoration programs

13 (A) in an area where consumptive use of fish and game is not
14 permitted; or

15 (B) for management of nongame species.

16 (c) If the state breaches this public trust, the state shall either acquire an area
17 of land or designate an area of state land equal to three times the acreage of land on
18 which the public trust was breached in order to provide a location in the same
19 geographic area where unrestricted fishing, hunting, or trapping activities can occur.

20 (d) A person may bring a civil action in a court of competent jurisdiction
21 against a state agency or a public official for an injunction to compel compliance with
22 this section or to compel remedial action to correct a violation of this section. A
23 public official is not immune from suit under this section.

24 (e) A person who brings an action to enforce this section and who prevails in
25 the action is entitled to recover the full, true, and actual costs of litigation, including
26 100 percent of actual attorney fees.

27 (f) In this section,

28 (1) "harvestable surplus" means the estimated number of animals that
29 is equal to the number of offspring born in a game population during a year less the
30 number of animals in the population that die during the year from all causes other than
31 predation or human harvest;

1 (2) "highest levels of human harvest" means the harvest of greater than
2 one-third or more of the harvestable surplus of a fish stock or game population by
3 humans;

4 (3) "maximum sustained yield" means the achievement and
5 maintenance in perpetuity of the highest levels of human harvest on an annual basis
6 of game, other than mammalian predators, or of fish.

7 * Sec. 3. AS 16.20.020 is amended to read:

8 Sec. 16.20.020 PURPOSE. The purpose of AS 16.20.010 - 16.20.080 is to
9 conserve, maintain, and develop habitat and game populations [PROTECT AND
10 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
11 designated areas of the state and to guarantee access to and continued public
12 fishing, hunting, and trapping activities and opportunities in these areas,
13 consistent with maximum sustained yield.

14 * Sec. 4. AS 16.20.075 is amended to read:

15 Sec. 16.20.075. REGULATIONS. The board shall, under AS 16.05, adopt
16 regulations

17 (1) governing the taking of game or: state game refuges it considers
18 advisable for conservation and protection purposes;

19 (2) guaranteeing access to and for continued consumptive uses.

20 * Sec. 5. AS 16.20 is amended by adding a new section to article 4 to read:

21 Sec. 16.20.295. PURPOSE. In addition to the purposes stated in AS 16.20.300
22 - 16.20.360, state range areas are created to guarantee access to and continued public
23 fishing, hunting, and trapping activities and opportunities in these areas, consistent with
24 maximum sustained yield.

25 * Sec. 6. AS 16.20.500 is amended to read:

26 Sec. 16.20.500. PURPOSE. The purpose of AS 16.20.500 - 16.20.690 is to
27 protect and preserve habitat areas especially crucial to the perpetuation of fish and
28 wildlife, and to restrict all other uses not compatible with that primary purpose and
29 to guarantee access to and continued public fishing, hunting, and trapping
30 activities and opportunities in critical habitat areas, consistent with maximum
31 sustained yield.

1 * Sec. 7. AS 16.20.510 is amended to read:

2 Sec. 16.20.510. REGULATIONS. The Board of Fisheries and the Board of
3 Game, where appropriate, shall adopt regulations they consider advisable for

4 (1) conservation and protection purposes governing the taking of fish
5 and game in state fish and game critical habitat areas;

6 (2) guaranteeing access to and continued public fishing, hunting,
7 and trapping activities and opportunities in fish and game critical habitat areas,
8 consistent with maximum sustained yield.

9 * Sec. 8. AS 16.20 is amended by adding a new section to read:

10 ARTICLE 6. GENERAL PROVISIONS.

11 Sec. 16.20.990. DEFINITION. In this chapter, "maximum sustained yield" has
12 the meaning given in AS 16.05.145.

13 * Sec. 9. AS 16.05.005(d), added by sec. 1 of this Act, and AS 16.05.145(e), added by sec.
14 2 of this Act, have the effect of amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil
15 Procedure, by providing that a person who prevails in an action under AS 16.05.005(c) or
16 16.05.145(d) is entitled to recover the full, true, and actual costs of bringing and prosecuting
17 the action, including 100 percent of actual attorney fees incurred to bring and prosecute the
18 action.

19 * Sec. 10. AS 16.05.005(d), added by sec. 1 of this Act, and AS 16.05.145(e), added by
20 sec. 2 of this Act, take effect only if sec. 9 of this Act receives the two-thirds majority vote
21 of each house required by art. IV, sec. 15, Constitution of the State of Alaska.



Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

MEMO

TO: George Utermohle
Legal Services
via fax: X2029 this page only

FROM: Annette Kreitzer, Aide to MK
Senate Resources Committee
PHONE: X4907

DATE: March 11, 1996

RE: Senate CS for SB 262(RES)

Please prepare a FINAL Senate Resources CS for SB 262 with the following changes.

1. Page 1, Lines 9-12:

The Committee wants to exclude board of game members from this section. This was a verbal amendment with no instruction as to drafting style.

2. Page 3, Line 1:

Following "established by law," Insert:
except when such restrictions are necessary solely for the purpose of protecting habitat from direct damage due to the method of access.

Please deliver the FINAL to Senator Loren Leman's office, Room 115 of the Capital. No other changes were adopted by the committee. Call if you have questions.




Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

MEMO

TO: George Utermohle
Legal Counsel
via FAX: 2029 this page only

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee 

DATE: March 7, 1996

RE: CS for SB 262 (RES): **ADDENDUM!**

PLEASE INCLUDE THE FOLLOWING CHANGES IN ADDITION TO THE
CHANGES IN THE PREVIOUS MEMO:

Page 2, Line 19:
following "harvest of", insert: greater than

Page 3, Line 30:
following "harvest of", insert: greater than

Page 3, Line 27:
following "born in a", insert: game

THANKS!



Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

MEMO

TO: George Utermohle
Legal Counsel

FROM: Annette E. Kreitzer, Aide to
Senate Resources Committee

DATE: March 7, 1996

RE: CS for SB 262 (RES)

Using the following language, please craft another CS for SB 262 (RES). The citations are to the LS1431N version you drafted February 29, 1996. This bill will be before the Resources Committee tomorrow at 3:30 p.m..

Page 1, Lines 8-9:

After "basis" insert , After "basis." insert the following language: In areas where human harvest has been found to be an important use, those game populations shall be managed for maximum sustained yield by human harvest.

Page 2, Line 5:

DELETE [five]
Insert three

Page 2, Line 19:

DELETE [high level]
Insert highest levels

Page 2, Line 22:

DELETE [a high level]
Insert the highest levels

Page 3, Line 15:

DELETE [five]
Insert three

Page 3, Line 30:

DELETE [high level]
Insert highest levels

Page 4, Lines 2-3:

DELETE [a high level]
Insert the highest levels

After "game" insert , and on line 3 following "predators" insert , (to make the punctuation correctly consistent with page 2, line 23)

Those are all of the changes. Please call me at x4907 if you have questions.

9-LS1431F
Utermohle
2/29/96

CS FOR SENATE BILL NO. 262(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained yield
2 for human harvest and providing for the replacement of areas closed to
3 consumptive uses of game; relating to management of fish and game areas; and
4 amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil Procedure."

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

6 • **Section 1. AS 16.05 is amended by adding a new section to read:**

7 **Sec. 16.05.005. MANAGEMENT OF GAME. (a)** Notwithstanding any other
8 law to the contrary, game populations shall be managed solely on a biological basis
9 for maximum sustained yield by human harvest. Consumptive use of game is the
10 highest and best use of game. This section does not apply on land designated as a
11 park or a state game sanctuary where consumptive use of game is prohibited.

12 **(b)** If the department, the Board of Game, or other agency of the state, closes
13 an area to the taking of a game species for consumptive use for subsistence or sport
14 uses, or closes an area to the taking of a game species for consumptive use by a

1 method, manner, or means that was permitted in the area before the closure, the Board
2 of Game at its next regularly scheduled meeting after the closure shall open a new area
3 or areas where the consumptive uses that were prohibited can occur and where healthy
4 populations of the affected game species are present. The new area or areas opened
5 by the board shall be at least ~~five~~² times larger than the area that was closed. This
6 subsection does not apply to a temporary closure based upon a biological emergency.

7 (c) A person may bring a civil action in a court of competent jurisdiction
8 against a state agency or a public official for an injunction to compel compliance with
9 this section or to compel remedial action to correct a violation of this section. A
10 public official is not immune from suit under this section.

11 (d) A person who brings an action to enforce this section and who prevails in
12 the action is entitled to recover the full, true, and actual costs of litigation, including
13 100 percent of actual attorney fees.

14 (e) In this section,

15 (1) "harvestable surplus" means the estimated number of animals that
16 is equal to the number of offspring born in a ~~game~~^{game} population during a year less the
17 number of animals in the population that die during the year from all causes other than
18 predation or human harvest;

19 (2) "high level of human harvest" means the harvest of one-third or
20 more of the harvestable surplus of a game population by humans;

21 (3) "maximum sustained yield" means the achievement and
22 maintenance in perpetuity of a high level of human harvest on an annual basis of
23 game, other than mammalian predators.

24 * Sec. 2. AS 16.05 is amended by adding a new section to read:

25 Sec. 16.05.145. PUBLIC TRUST FOR SPECIAL FISH AND GAME
26 MANAGEMENT AREAS. (a) The state has created a public trust by the use of
27 revenue generated from taxes, license fees, and other fees paid by sportsmen, by the
28 acceptance and use of funds received from federal aid in sport fish and wildlife
29 restoration programs, and by the establishment of state game refuges, range areas,
30 special management areas, critical habitat areas, and similar areas established by law.

31 (b) This public trust would be breached by

1 (1) restricting public access to state game refuges, range areas,
2 sanctuaries, special management areas, critical habitat areas, and similar areas
3 established by law;

4 (2) restricting fishing, hunting, and trapping activities and opportunities
5 on state game refuges, range areas, special management areas, critical habitat areas,
6 and similar areas established by law in a manner that is inconsistent with maximum
7 sustained yield of fish and game; or

8 (3) utilization of the revenue generated from taxes, license fees, and
9 other fees paid by sportsmen or funds received from federal aid in sport fish and
10 wildlife restoration programs

11 (A) in an area where consumptive use of fish and game is not
12 permitted; or

13 (B) for management of nongame species.

14 (c) If the state breaches this public trust, the state shall either acquire an area
15 of land or designate an area of state land equal to ~~five~~³ times the acreage of land on
16 which the public trust was breached in order to provide a location in the same
17 geographic area where unrestricted fishing, hunting, or trapping activities can occur.

18 (d) A person may bring a civil action in a court of competent jurisdiction
19 against a state agency or a public official for an injunction to compel compliance with
20 this section or to compel remedial action to correct a violation of this section. A
21 public official is not immune from suit under this section.

22 (e) A person who brings an action to enforce this section and who prevails in
23 the action is entitled to recover the full, true, and actual costs of litigation, including
24 100 percent of actual attorney fees.

25 (f) In this section,

26 (1) "harvestable surplus" means the estimated number of animals that
27 is equal to the number of offspring born in a ^{year} population during a year less the number
28 of animals in the population that die during the year from all causes other than
29 predation or human harvest;

30 (2) "high level of human harvest" means the harvest of one-third or
31 more of the harvestable surplus of a fish stock or game population by humans;

1 (3) "maximum sustained yield" means the achievement and
2 maintenance in perpetuity of a high level of human harvest on an annual basis of game,
3 other than mammalian predators or of fish.

4 * Sec. 3. AS 16.20.020 is amended to read:

5 Sec. 16.20.020. PURPOSE. The purpose of AS 16.20.010 - 16.20.080 is to
6 conserve, maintain, and develop habitat and game populations [PROTECT AND
7 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
8 designated areas of the state and to guarantee access to and continued public
9 fishing, hunting, and trapping activities and opportunities in these areas,
10 consistent with maximum sustained yield.

11 * Sec. 4. AS 16.20.075 is amended to read:

12 Sec. 16.20.075. REGULATIONS. The board shall, under AS 16.05, adopt
13 regulations

14 (1) governing the taking of game on state game refuges it considers
15 advisable for conservation and protection purposes;

16 (2) guaranteeing access to and for continued consumptive uses.

17 * Sec. 5. AS 16.20 is amended by adding a new section to article 4 to read:

18 Sec. 16.20.295. PURPOSE. In addition to the purposes stated in AS 16.20.300
19 - 16.20.360, state range areas are created to guarantee access to and continued public
20 fishing, hunting, and trapping activities and opportunities in these areas, consistent with
21 maximum sustained yield.

22 * Sec. 6. AS 16.20.500 is amended to read:

23 Sec. 16.20.500. PURPOSE. The purpose of AS 16.20.500 - 16.20.690 is to
24 protect and preserve habitat areas especially crucial to the perpetuation of fish and
25 wildlife, and to restrict all other uses not compatible with that primary purpose and
26 to guarantee access to and continued public fishing, hunting, and trapping
27 activities and opportunities in critical habitat areas, consistent with maximum
28 sustained yield.

29 * Sec. 7. AS 16.20.510 is amended to read:

30 Sec. 16.20.510. REGULATIONS. The Board of Fisheries and the Board of
31 Game, where appropriate, shall adopt regulations they consider advisable for

1 (1) conservation and protection purposes governing the taking of fish
2 and game in state fish and game critical habitat areas;

3 (2) guaranteeing access to and continued public fishing, hunting,
4 and trapping activities and opportunities in fish and game critical habitat areas,
5 consistent with maximum sustained yield.

6 * Sec. 8. AS 16.20 is amended by adding a new section to read:

7 ARTICLE 6. GENERAL PROVISIONS.

8 Sec. 16.20.990. DEFINITION. In this chapter, "maximum sustained yield" has
9 the meaning given in AS 16.05.145.

10 * Sec. 9. AS 16.05.005(d), added by sec. 1 of this Act, and AS 16.05.145(e), added by sec.
11 2 of this Act, have the effect of amending Rules 79(b) and 82(b)(2), Alaska Rules of Civil
12 Procedure, by providing that a person who prevails in an action under AS 16.05.005(c) or
13 16.05.145(d) is entitled to recover the full, true, and actual costs of bringing and prosecuting
14 the action, including 100 percent of actual attorney fees incurred to bring and prosecute the
15 action.

16 * Sec. 10. AS 16.05.005(d), added by sec. 1 of this Act, and AS 16.05.145(e), added by
17 sec. 2 of this Act, take effect only if sec. 9 of this Act receives the two-thirds majority vote
18 of each house required by art. IV, sec. 15, Constitution of the State of Alaska.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

The Alaska Environmental Lobby is opposed to SB 262

SB 262 assumes "consumptive use of game is the highest and best use of game" and that game populations should be managed "solely for maximum sustained yield by human harvest".

Legislative language of that sort is driven by competition to bag one's limit; not concern for the overall health of an ecosystem. Only a healthy ecosystem will be able to adequately sustain both game and non game populations for subsistence and recreational hunters; as well as for tourism and other nonconsumptive use.

SB 262 determines that if an area is closed to hunting or to a particular method of hunting...another area at least five times as large must be opened elsewhere. Potential conflicts from such a "one for five" swap effectively eliminate closure or a limit on methods from game managers' tool bags. That is more coercion than law.

SB 262 encourages individuals unhappy with a game management decision to "bring a civil action in a court of competent jurisdiction". It assures the potential plaintiff that if they prevail they are "entitled to recover the full, true, and actual costs of litigation, including 100% of actual attorney fees." The Bill further threatens: "A public official is not immune from suit".

The subject matter of this bill-management of game populations-is a potentially divisive, emotional issue that begs for thoughtful, responsible leadership. In contrast, the tone and tenor of this legislation is angry and confrontational. Alaskans and Alaska's resources deserve better guidance than SB 262.

3/8/96

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE ALUTIQUON SOCIETY • ARCTIC ALUTIQUON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU ALUTIQUON SOCIETY • JUNEAU GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA ALUTIQUON SOCIETY • KNIK CANCHERS AND NATIVES
KNIK GROUP, SIERRA CLUB • KODIAK ALUTIQUON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
OFC WILLIAM BURNS CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • WESTERN ALASKA CONSERVATION COUNCIL • TOMMANS CONSERVATION SOCIETY



Alaska State Legislature

SENATOR

MIKE MILLER

Mailing Address:

11911 Cushman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0862

Fax: (907) 488-4271



Senate

Sponsor Statement

SB 262

Write to: Justice

State Capitol

Juneau, Alaska

99801-1182

Ph: (907) 465-4976

Fax: (907) 465-3883

Senate District Q

Since Statehood, Alaskans, whose sustenance and livelihood relies upon our wildlife resources, have lost over 100 million acres to consumptive uses in one form or another. This land mass is larger than the State of Wyoming. Additionally, Alaskan hunters have lost effective utilization of some of the most productive areas in the State through ever increasing restrictions on access. These restrictions are being adopted in lands which sportsmen themselves have helped set aside and whom exclusively pay for the maintenance, management and administration of these lands.

Because of increasing restrictions and the loss of available areas to hunt, Alaskans are currently taking less than 2% of the annual harvestable surplus of moose, caribou and sheep--compared to other states who routinely harvest 30-60% of their big game each year. Additionally, Alaskan hunters harvest of moose, caribou and sheep has declined over 30% between 1989 and 1993.

The Department of Fish and Game is funded 100% by sportsmen's dollars generated through license fees and self imposed taxes. This legislation recognizes that public trust and would allow for no net loss of land for Alaska's consumptive users. Additionally, it requires remediation of 5 acres for every acre lost in the future.

The legislation will also eliminate the spending of Fish and Game fund monies paid by consumptive users for any activity on lands where consumptive uses have been eliminated or restricted. By passing this legislation, the legislature will recognize the special public trust created by the use of license monies and will reverse the trend of restrictions on consumptive uses throughout Alaska.

Feb. 27, 1996 - p. 1/2

TO: Senator Mike Miller,
members of the Senate Resources Committee, and other concerned
legislators.

FROM: Frederick C. Dean, 810 Ballaine Rd., Fairbanks, AK 99709
Tel. 907-479-6607 (voice only).

SUBJECT: Senate Bill No. 262 "An Act relating to management of game ..."

SB 262 should not be passed!

I see many potential problems with this bill and will try to summarize the most serious ones below. My comments are made from a background that includes over 40 years of work in Alaska as a wildlife biologist. I am definitely interested in seeing most populations of game animals in Alaska be available for hunting. I feel that management is appropriate in many situations, including habitat manipulation and under some conditions manipulation of predator populations. I am not by any means a strict preservationist or an anti-hunter. I hope you will accept my comments as constructive criticism.

In general, this bill appears to legislate what I am sure that most wildlife professionals are interested in achieving, but does so in connection with very specific standards that will certainly be inappropriate or unachievable in some circumstances. The result, under this bill would be to either jeopardize the management program or to place the managers under unwarranted liability.

RE: Sect. 1(a) - Consumptive use may be the highest and best use of wildlife in many areas; it is definitely not true everywhere, and legislation can not change reality. Rigidly defining consumptive use as the highest and best use of game, even with the exclusion of parks and sanctuaries, is going to make the decision framework for wildlife management in the future almost impossible. There are bound to be places in this state in future years (outside of parks and sanctuaries) where consumptive use of wildlife is not the highest and best use. The immediate environs of cities and towns and zones along highways are examples that come to mind immediately. These zones are almost certainly (a) going to be developed to the point where hunting will be dangerous to the public, and (b) going to have intense use by tourists and non-hunting Alaskans who want to see wildlife that is supposed to characterize this state. Wildlife viewers bring and will continue to bring a great deal of money into the Alaskan economy; these people will not be as interested if the only places to see wildlife are in a few, widely separated parks and sanctuaries.

RE: Sect. 1(b) - The mandatory requirement that new areas be opened to compensate for closures, and in particular the size requirement, could lead to the impossible and/or the ridiculous. There simply may not be suitable areas available for opening (In the most extreme example all suitable lands might

already be open) and yet there may be a need to close a particular area to hunting. The requirement that the Board of Game compensate for the actions of state agencies not involved in wildlife management would necessitate 5X expansion of hunting lands in reaction to the establishment of much of the infrastructure development in the state. Much as we might like to be able to do so, we have not achieved zero-growth of our human population in Alaska, and it seems like an unlikely event. Given that and the fact that the total land area in the state that is capable of supporting huntable populations of game animals is finite, thus the mandate to expand the total area open to hunting attempts to create something out of nothing. If the intent of SB 262 is to prohibit any new closures, then the bill's purpose and action should be so stated, simply and clearly. That would at least let people see the issue in a straightforward manner.

RE: Sect. 2(a) - I believe that I would argue that the public trust created by the Constitution of Alaska, i.e. that of protecting and insuring the sustainability of wildlife resources, is paramount to that inherent in the collection of funds. I fully agree that the public at large has a great stake in all of our wildlife resources and should help in funding wildlife conservation and management, whether for consumptive or "non-consumptive" purposes. Funding derived from hunting and fishing fees and taxes has led much of the conservation movement across the U.S. and in Alaska, but each of these two major user groups has benefitted from expenditures on the "opposite side of the ledger." We are dealing with closely linked ecological systems and habitats that serve many populations in temporally complex patterns. Insistence on funding emphasis is one thing; exclusionary restrictions become self-defeating.

RE: Sect. 2(b)(1) - There are many times and situations in which wildlife managers should be able to restrict public access to state game refuges, range areas, sanctuaries, etc. The restrictions may be necessary, particularly during the breeding season but also during periods of heavy stress, to achieve maximum production of young and/or maximum survival. Such restrictions are very common on waterfowl production areas; areas of concentrated calving and wintering by big game should also be free of human disturbance if the highest possible yields are to be reached. Do not remove management options from the already very small bag.

RE: Sect. 2(b)(3)(C) - As noted above, it is almost impossible to separate completely the effects of expenditures in wildlife conservation and management in a manner that excludes benefits to non-game that might result from projects aimed at game, and vice versa. This clause in combination with the others would make game managers liable to totally unwarranted law suits.



Alaska State Legislature

FEB 15 1996

Please enter into the record my testimony to the SENATE RESOURCE
committee name
committee on SB 230 - 262, dated Feb 1996
bill/subject

Why was more time NOT allotted for Public Comment? Why was FAIRBANKS the only site from which Public Comment was taken?

MR. WAYNE REGELIN. FAILED TO MENTION NUMEROUS AREAS CLOSED TO HUNTING, FOR ALL OR SPECIFIC SPECIES, EXAMPLES:

- 1) SHEEP MT. CLOSED AREA
- 2) COOPER LANDING CLOSED AREA
- 3) DOUGLAS CREEK ^{Little} ~~at~~ KAMISHNIK RIVER
- 4) RESURRECTION CREEK CLOSED AREA
- 5) PORTAGE GLACIER CLOSED AREA
- 6) SEWARD CLOSED AREA
- 7) PAXSON CLOSED AREA
- 8) KETCHIKAN ROAD SYSTEM - CLOSED
- 9) HYDER SALMON RIVER - CLOSED

FURTHER MORE, NO FEDERAL, STATE PUBLIC LANDS ARE CLOSED TO WILDLIFE VIEWING

Signed: ROD ARNO

Testifier: ALASKA OUTDOOR COUNCIL

Representing (Optional): P.O. BOX 2790 PALMER

Address: 376 - 2913

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the RESOURCE COMM.
 committee name
 committee on SB 262, dated Feb 12, 1996.
 bill/subject

MR CHAIRMAN.

I have been to several tele-conferences and it seems the state employees use up a lot of the time i.e. MR. Reslin. They should participate last as they are already in Jurean. We the public are not being paid at these tele-conferences some have to take time off work. So basically the public is getting cut off. Please address this in tele-confer in the future if possible. Thank you
 I support SB 262

Signed: Kenneth Ruward
 Testifier

self
 Representing (Optional)

Box 871842 Wasilla Alaska 99687
 Address

907 376 2140
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Resources
 committee name
 committee on SB 262, dated 2-12-96
 bill/subject

We support this Bill

If this bill would require predator control to manage game for people consumption - That alone would cause wide spread popular support.

As long as sporting goods stores and user fees are paying for most of game management this bill would correct the expenditure of funds toward ~~consumptive~~ fee paying consumptive uses. May even be a step toward accommodating the people who pay the bill.

Please support this bill in committee

Signed: Maclure, L. Woods
 Testifier

Matanuska Valley Sportsmen
 Representing (Optional)

P.O. Box 827, Palmer AK 99645
 Address

945-3027
 Phone No.



Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

MEMO

TO: George Utermohle
Legal Counsel
via fax: this page only x2029

FROM: Annette Kreitzer, Aide to
Senate Resources Committee *[Signature]*

DATE: February 29, 1996

RE: Resources CS for SB 262

Please prepare a Resources Committee Substitute for SB 262, Management Of Fish/Game Population & Areas, incorporating the following changes:

- Page 3, Lines 12-15:
Line 12: insert "or" following permitted
Lines 13-15: Delete and reletter following subsection (C);
- Page 4, Lines 20-22:
Delete all material and insert:
(2) guaranteeing access to and for continued consumptive uses.
- Remove the word "sport" from the following locations:
Page 3: Lines 4, and 20
Page 4: Lines 12, 20 and 26
Page 5: Lines 1, and 9

Please call me (X4907) if you have questions. This bill will be brought before the committee at the next Resources hearing.

SB

278

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/9/96

FURTHER: Finance

Date of 5-Day Notice: 2-15-96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-19-96

The Resources Committee considered SB 278

Relating to the authority of the Department of Natural Resources to allow credits against fees at state historical parks.

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR# _____

SIGNING DO PAS9	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
CHAIR: <i>[Signature]</i>		CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>TRC/PAS</i>	<i>2/10/96</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

Sponsor Statement

Senate Bill 278

Senate Bill 278 was introduced to address concerns raised by the Ketchikan Area State Parks Advisory Board and the Ketchikan Gateway Borough Assembly.

SB 278 would provide a mechanism by which the Division of Parks and Outdoor Recreation could acquire two small parcels of land adjacent to Totem Bight State Historical Park.

The parcels are currently held by Ketchikan Public Utilities as the site of a diesel generation plant. KPU plans to vacate the property, which would then revert to the Ketchikan Gateway Borough.

SB 278 would allow DNR to offer credits against fees paid by commercial tour operators for payments made to a municipality for projects that will mitigate or alleviate access, congestion and parking problems at historical parks. The Division of Parks and Outdoor Recreation has indicated that use of this provision at any state historical park other than Totem Bight is unlikely. In any event, the authority would sunset on December 31, 2000. The three year window is needed to avoid drawing too quickly against the fees.

District A

Hyder • Ketchikan • Kupreanof • Niyem Chuck • Petersburg • Salamat • Sitka • Wrangell

Sponsor Statement - SB 278

Page Two

Totem Bight, a 12.5 acre state park located north of the City of Ketchikan, had an estimated 160,000 visitors in 1995, about half of them arriving on commercial tours. In 1977 it was estimated that the park could handle between 636 and 744 people at one time. Actual use now exceeds 925 people in the park at once.

The park only has seven parking spaces for busses and often there are up to 21 busses parked in the lot, on road shoulders and at a nearby gift shop. Park staff is now advising independent travelers and local park users to pay attention to the cruise ship schedule and avoid the park when the ships are in town.

To mitigate this overcrowding and congestion, DNR is proposing that the tour operators pay for acquisition of the borough-owned parcels to provide additional parking space and additional attractions such as trails and a carving demonstration area.

The Department of Transportation and Public Facilities has indicated an interest in developing a transportation enhancement project along the road at Totem Bight if the land becomes available.

Totem Bight is a valuable asset. The state has invested more than a million dollars in capital improvements to the facility over the past ten years. By acquiring these two parcels we can spread out the use area, enhance the park and mitigate the problems.

Craig Moore, 2118 Second Avenue, said he is the chair of the Ketchikan Area State Parks Advisory Board. The board was pleased to see their request on the agenda for the Borough to endorse and support the addition of lands to the Totem Bight State Parks. He hopes the Borough will agree this is the best use for this property. They want the request on this year's legislative priority list. They hope it is not too late to do that. This would aid the Division of Parks in obtaining funds to purchase the two tracts of land. He understands KPU will be vacating one of the parcels. They feel this tract will be especially beneficial to the park. This would be a very good use of the land. The plan is to use it for parking and for a totem carving project. It is a good area for viewing the park. The Board urges the Assembly to look favorably on their request and hopefully the Ketchikan Area State Parks Advisory Board can get this on their legislative priority list.

In response to Assemblymember Elkins, Mr. Moore said the Ketchikan Area State Parks Advisory Board looked at the fee structure for the park several years ago. They researched it thoroughly. The fee was raised. He is not sure if the fee will be raised again. Totem Bight raises quite a bit of money for the Division of Parks. It is definitely profitable. He doesn't know what Saxman charges for their tours. The local legislators were involved when the fee was raised. The park is a very popular attraction, not only to the local residents, but the visiting tourists. He just returned from Mexico where he learned that anything with history, archeology, and anthropology is a very important attraction. People all over the world are interested in it. Our native culture is very popular. The park is undergoing a management plan through the Division of parks. That is why they would like to add these parcels to the park. It would make it easier for tourists that want to view that area.

In response to Assemblymember Mitchell, Mr. Moore said they would certainly like to have both Tract M and L. If the Borough decides not to release both parcels, perhaps it would be reconsidered in the future. It is adjacent to the tidelands and has some trail potential.

Assemblymember Yetka said the agenda statement given to the Assembly states the Borough may have a need for Tract L for a location to place waste or recycling containers. She asked Mr. Moore if this was just going to be used for viewing and to protect the tidelands.

Mr. Moore said yes. Those were some of the ideas the advisory board had for that tract. He is not sure what the Management of the Division of Parks has in mind. They do listen to the local Advisory board. The Board wants to keep the view shed along that area. Tract L is steep and narrow.

Mayor Carlton said the community priority list is finished for this year. If the Assembly approves this request, the Assembly could send a letter of support.

~~Ray Sallee, 4507 North Tongue, said he is against mandated garbage pickup. He understands it has already passed. He spoke to a lot of people who are not in favor of it. He feels he got bypassed during the process. He did not see a referendum on the ballot or anything. He is just about to the point of circulating petitions to see if he can get this overturned. He is one of the good guys who takes care of his garbage.~~

~~Manager Rody explained how the exemption works and who can be exempted. Reasons for receiving an exemption are (1) if you can't be served, (2) if you are part of an area that gets pickup already like a mobile home court, and (3) if the person does several recycling things such as composting and burning.~~

~~Mr. Sallee said he feels like he was bypassed and did not get a chance to let the Assembly know how he felt about the passage of the new regulations. He doesn't feel this will help with the dumping. He thinks people will probably dump even more in those places, because they will be irate. He feels this should have been voted on by the people.~~

Post-It™ brand fax transmittal memo 7671 # of pages 3

To: JOE ANBROSE	From: Borough
Ca: CLERK	Ca: CLERK
Dept:	Phone:
Fax: 465-3922	Fax:

Consideration of a request from the Ketchikan Area State Parks Advisory Board to support their request to acquire the small borough-owned tract of land adjacent to Totem Blight State Historic Park

M/S Tipton/Yetka to place the acquisition and/or land swap of Tracts L & M (ASLS 81-39; 0.575 acres), be placed on the Legislative Priority list by means of a letter to the State.

Assemblymember Yetka said Mr. Moore said with the Borough's support by adding Tract L, the State Parks would favor a stipulation for locating recycling bins on that property. The transfer could be contingent upon reaching an agreement for recycling bins on that property. This would give them use of the adjacent land.

Assemblymember Coyne said this would all come up with the purchase. The stipulations would be addressed then.

Assemblymember Mitchel said he is not sure the two concepts are compatible. There would be the state park that is for tourists along side a recycling place.

Assemblymember Yetka said it was just for the bins.

Assemblymember Mitchel said at first he was in favor of the idea. He wondered if there wasn't an area closer to town.

Assemblymember Yetka said a fence could be constructed.

Manager Rody said he wanted to bring this up because it is the only parcel in that area that could be used for that purpose. If you have been out there it is a long ways away. It may be the Assembly may decide later not to use this property for a recycling bin.

Assemblymember Chenhall said we have to remember that Tract M is still being used by KPU and will not be available until the generator is moved.

M/S Mitchel/Chenhall to vote on the tracts separately.

MOTION DECLARED CARRIED BY VOICE VOTE WITH ONE "NO" VOTE.

Mayor Carlton asked for a roll call vote on Tract M.

Upon roll call, the vote on the motion was:

YES: COYNE, ELKINS, YETKA, CHENHALL, MITCHEL, TIPTON

NO: NONE

ABSENT: CONLEY

MOTION DECLARED CARRIED.

Assemblymember Mitchel said Tract L can be decided later. The Assembly is in the middle of the whole solid waste thing. After determining where we are with that and deciding if we need the land or not, we can make the swap later. He feels the core property is Tract M. Tract L may have utility for the Borough.

Mayor Carlton asked for a roll call vote on Tract L.

Upon roll call, the vote on the motion was:

YES: COYNE, ELKINS, YETKA, TIPTON

NO: MITCHEL, CHENHALL

ABSENT: CONLEY

MOTION DECLARED CARRIED.

~~Consideration of an agreement with Tongass Sanitation, Inc. for solid waste collection and disposal (as provided by Ordinance No. 983 adopted 12/4/95)~~

~~This was considered earlier in the meeting.~~

~~Consideration of Resolution No. 1258 establishing the amount of the non-areawide disposal fee and authorizing the mandatory non-areawide monthly residential solid waste collection fees~~

~~There was no action taken.~~

~~Introduction of Ordinance No. 985 providing for alternatives to prepayment of property taxes upon replat~~

~~This was considered earlier in the meeting.~~

~~Consideration of bid award for dry dock inspection and repairs to the M/V Bob Ellis to Alaska Ship and Dry Dock for \$250,425~~

~~This was considered earlier in the meeting.~~

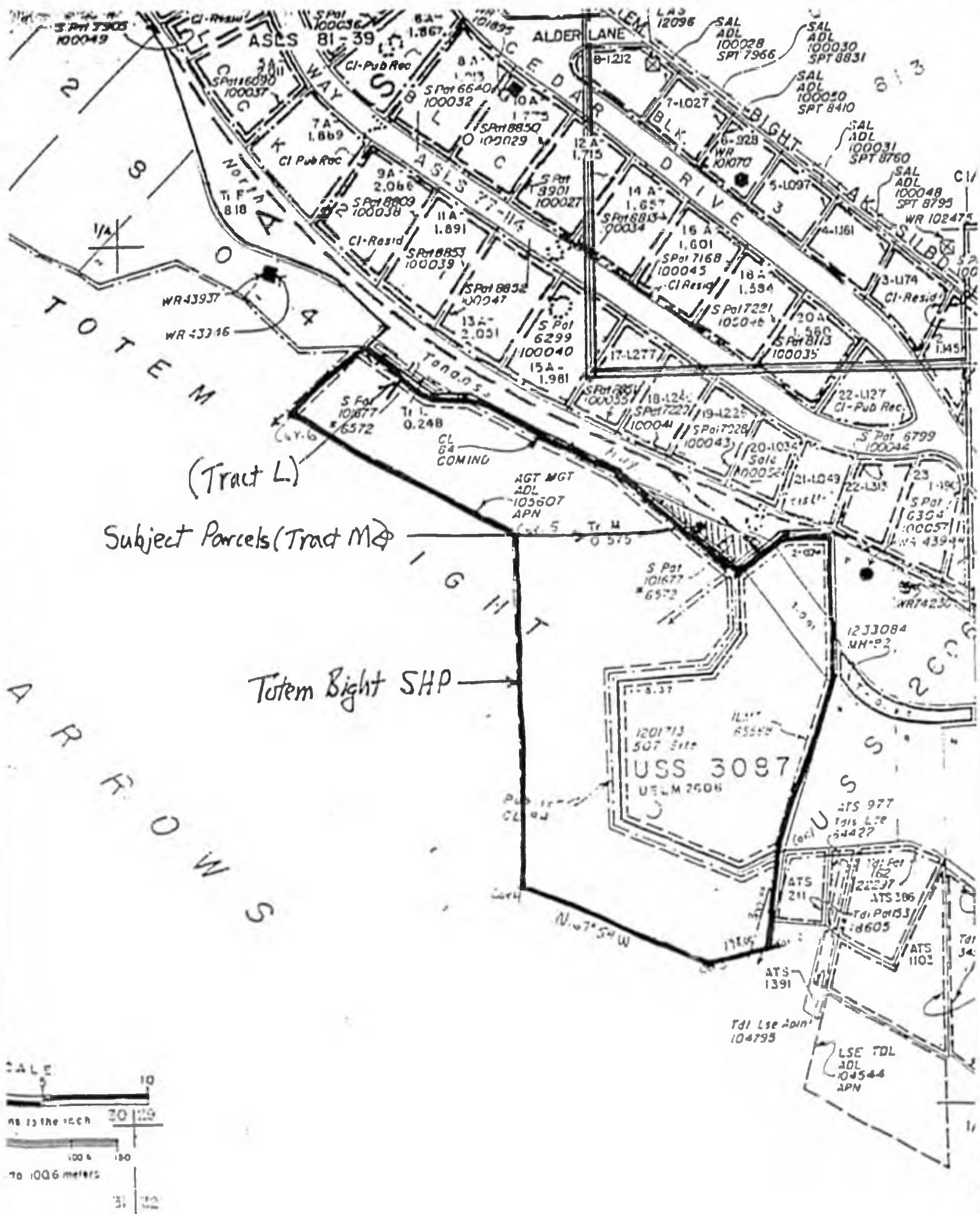
REPORTS OF COMMITTEES, EXECUTIVE, ADMINISTRATORS

Manager's Report

Manager Rody said he wanted to give Assemblymember Coyne an answer for his question on why it takes 30 days to get an answer from the Planning Department. The person understood he was asking about the Carlisle conditional use permit. It would be thirty days before the Planning Commission will meet and then they will be able to give you your answer. The other question was how many day care centers have conditional use permits. Right now they know of none. What the Borough has done, is sent out letters letting the day care providers know they must get conditional use permits.

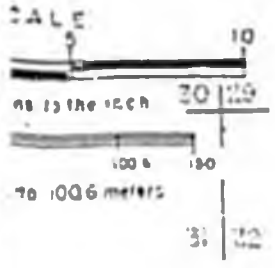
Manager Rody said he would like to thank Chief John Voln and Chief Ken Holmes and their staffs for continuing efforts to get water down to the Mountain Point Service Area. They worked hard getting the Mountain Point Service Area water during the cold spell.

Manager Rody said Craig Moore spoke earlier. He is negotiating with him to be the inspector for the Indoor Recreation Center. Because the amount of money is beyond his contracting authority, he will be bringing a contract back to the Assembly for approval at the next meeting. He is going to offer \$45,000 for a year's worth of work and out-of-pocket expenses. The Borough will request he have a bond. He feels Mr. Moore is competent and capable and he looks forward to having him on board. Mr. Rody said he had two people apply for the position.



(Tract L)
 Subject Parcels (Tract M)

Totem Bight SHP →



SB

283

FISCAL NOT

No. 1

Bill Version: SB 283

(S) Publish Date: 2/9/96

STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: Original Dept Affected Natural Resources
 Title: An Act relating to filing, recording, and BRU: Management & Administration
indexing of documents... Component: Recorder's Office/UCC
 Sponsor: Rules Committee
 Requestor: Governor Component Serial No. 802

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES				(140.0)	(140.0)	(140.0)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING				(140.0)	(140.0)	(140.0)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts				(140.0)	(140.0)	(140.0)
1008 GF/MHTIA						
Other						
TOTAL				(140.0)	(140.0)	(140.0)

Estimate of any current year (FY96) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	-3	-3	-3
PART-TIME	0	0	0	-1	-1	-1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation addresses the dual goals of improving customer service and streamlining government processes. These proposed changes are principally housekeeping measures in the recording system operated by the Department of Natural Resources that would serve to resolve certain conflicts and ambiguities in existing statutes and improve the recording function for the tens of thousands of Alaskans who use this service on an annual basis. The passage of comprehensive recording legislation in 1988 helped consolidate many of the prior laws into a single source, but it also contained a number of somewhat ambiguous provisions that have placed recorders in the awkward position of having to frequently stop beyond their basic ministerial functions and monitor documents for execution requirements or other legal criteria. This bill eliminates the restrictive classification statute which limited recording to sixty specific classes of documents. Under this bill, virtually any document is recordable so long as it meets specific minimum recording criteria. Further, ambiguities are removed from such statutory criteria, assuring that all documents

Prepared by: Nico Bus, Acting Director Phone: 485-2408
 Division: Support Services Date: 7-Feb-96
 Approved by Commissioner: Nico Bus for John Wood Date: 7-Feb-96
 Agency: Natural Resources

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ANALYSIS continued

are treated equally in the examination and recording process. It is estimated that perhaps a third of all rejected documents would be able to be accepted for recording at their initial submission if the proposed changes were implemented. Based on a recent time study in all recording offices statewide, more than ten percent of the total duties of front line recording staff relate to the rejection process. Additionally, it is estimated that perhaps as much as a third of the front line examination and processing time would be reduced if recording staff no longer had to examine for execution/legal requirements, discuss these items with customers, re-process formerly rejected documents, etc. The time study documents that approximately 17 percent of total front line staff time is spent on examination and processing. Thus the estimated time savings resulting from implementation of the proposed legislation would approach ten percent of total front line recording staff time (roughly three percent for rejection processing and 5.6 percent for examination and processing).

* The long term effect of this measure will ultimately reduce personal services costs throughout the section and is reflected as a savings in FY00 through FY02. While there would also be immediate savings recognized in earlier fiscal years, the section would need to redirect such resources toward the resolution of long-standing preservation and archival deficiencies (as detailed in a 1992 Ombudsman's investigative report) that it has been unable to address with existing staff. It is only after the preservation and archival issues have been addressed that the financial savings generated by this measure would be evident, and the section would be better positioned to continue operations with reduced staffing in future years, provided that recording volumes remain stable at existing levels.

TONY KNOWLES
GOVERNOR



P O Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 9, 1996

283

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec 18, of the Alaska Constitution, I am transmitting a bill relating to changes in state recording laws administered by the Department of Natural Resources. This bill clarifies the criteria for the recording of documents by the department and provides changes to improve the efficiency of the recording function, a service that is provided to all Alaskans through recording offices located in fourteen rural and urban locations across the state.

Comprehensive changes were made to recording laws in 1988. A number of provisions were consolidated and a classification system identifying documents eligible for recording was enacted. In practice, this system has required significant staffing time to determine whether a document offered for recording falls within one or more of the specific statutory classifications. Further, because of the ambiguities in the current recording statutes, recording staff have frequently had to step beyond mere ministerial functions when processing documents in an effort to apply the current cumbersome statutory language.

The changes proposed in this bill would permit the recording of documents without having to follow the complicated classification system in current law. Minor changes regarding filings under the Uniform Commercial Code (UCC) are also addressed. The bill adds a provision requiring the maintenance of a central office within the Department of Natural Resources for the filing of secured transaction documents under the UCC.

The bill also repeals several obsolete or redundant provisions including one concerning duplicate copies of documents relating to mining properties; a provision regarding indexing of common interest community documents; and a provision requiring reports to the Department of Commerce and Economic Development concerning conveyances to nonresident aliens.

By removing such ambiguities and conflicts within the current recording statutes, this bill will streamline the workflow of the recording process and reduce the amount of time currently spent reviewing documents offered for recording. This will also reduce the numbers of documents that are rejected. These proposed efficiencies will enable the recording system to direct necessary resources to the archival projects now underway to improve the permanent public records for the benefit of future generations of Alaskans.

I urge your passage of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is fluid and cursive, with the first name "Tony" being more prominent than the last name "Knowles".

Tony Knowles
Governor

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/9/96

FURTHER: State Affairs
Finance

Date of 5-Day Notice: 2-29-96
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 3-13-96

The Resources Committee considered SB 283

Relating to filing, recording, and indexing of documents with or by the Department of Natural Resources.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>					
<i>[Signature]</i>	✓	<i>[Signature]</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DNR - Records Office	2/7/96	✓	

* APPROPRIATION -- no fiscal note

* Include fiscal notes accompanying bills

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB283

1996 LEGISLATIVE SESSION

Revision Date: 9-Feb-96 Dept Affected Natural Resources
 Title: An Act relating to filing, recording, and BRU: Management & Administration
indexing of documents... Component: Recorder's Office/UCC
 Sponsor: Rules Committee
 Requestor: Senate Resources Component Serial No. 802

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES				(140.0)	(140.0)	(140.0)
TRAVEL						
CONTRACTUAL						
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EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING				(140.0)	(140.0)	(140.0)
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
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1005 GF/Program Receipts				(140.0)	(140.0)	(140.0)
1006 GF/MHTIA						
Other						
TOTAL				(140.0)	(140.0)	(140.0)

Estimate of any current year (FY96) cost: \$ none

POSITIONS

FULL-TIME	0	0	0	-3	-3	-3
PART-TIME	0	0	0	-1	-1	-1
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This legislation addresses the dual goals of improving customer service and streamlining government processes. These proposed changes are principally housekeeping measures in the recording system operated by the Department of Natural Resources that would serve to resolve certain conflicts and ambiguities in existing statutes and improve the recording function for the tens of thousands of Alaskans who use this service on an annual basis. The passage of comprehensive recording legislation in 1988 helped consolidate many of the prior laws into a single source, but it also contained a number of somewhat ambiguous provisions that have placed recorders in the awkward position of having to frequently step beyond their basic ministerial functions and monitor documents for execution requirements or other legal criteria. This bill eliminates the restrictive classification statute which limited recording to sixty specific classes of documents. Under this bill, virtually any document is recordable so long as it meets specific minimum recording criteria. Further, ambiguities are removed from such statutory criteria, assuring that all documents

Prepared by: Nico Bus, Acting Director Phone: 465-2406
 Division: Support Services Date: 9-Feb-96
 Approved by Commissioner: Nico Bus for John Havel Date: 9-Feb-96
 Agency: Natural Resources

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ANALYSIS continued

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* The long term effect of this measure will ultimately reduce personal services costs throughout the section and is reflected as a savings in FY00 through FY02. While there would also be immediate savings recognized in earlier fiscal years, the section would need to redirect such resources toward the resolution of long-standing preservation and archival deficiencies (as detailed in a 1992 Ombudsman's investigative report) that it has been unable to address with existing staff. It is only after the preservation and archival issues have been addressed that the financial savings generated by this measure would be evident, and the section would be better positioned to continue operations with reduced staffing in future years, provided that recording volumes remain stable at existing levels.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1706
PHONE: (907) 465-2400
FAX: (907) 465-3888

February 23, 1996

The Honorable Loren Leman
Chair, Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Leman:

Recently, SB 283 "An act relating to filing, recording, and indexing of documents with or by the Department of Natural Resources; repealing certain filing requirements concerning property involving nonresident aliens; and providing for an effective date." was referred to your committee for review. Because of the importance of this bill to the administration, the positive impact on the banking and mining industry and the general public, and the fiscal savings we would like to request that a hearing be scheduled in the near future.

This bill will help the public, the state, and it has long term benefits for Alaska. Some specific benefits are:

What this bill would do for the public:

- 1) Streamline the recording process, reducing the requirements documents have to meet to be recordable
- 2) Allows a broader number of documents to be recorded
- 3) Reduces the likelihood that documents will be rejected for recordation
- 4) Makes basic recording requirements specific and easier to understand

What this bill will do for the State:

- 1) Reduces personnel time spent in document examination
- 2) Reduces personnel time in document rejection process
- 3) Assures that recording personnel have defined criteria for processing documents

The Honorable Loren Leman
Chair, Senate Resource Committee
February 23, 1996
Page 2

- 4) Makes recording process easier to understand

Long Term Benefits for Alaska:

- 1) A wider variety of documents will appear in the official public record
- 2) Unnecessary delays in recording documents will be eliminated
- 3) Time and personnel savings can be redirected to address serious preservation problems with archival records
- 4) Changes a restrictive statute to one with broader document application

I look forward to meeting with your committee to discuss the merits of SB 283.

Sincerely,



John T. Shively
Commissioner

/sf

cc: Jim Ayers, Chief of Staff
Pat Pourchot, Legislative Liaison
Nico Bus, Support Services Division
Sharon Young, State Recorder

For several years, the Recorder's/UCC section in the Support Services Division, Department of Natural Resources, has been working to reengineer its workflow and processes in an effort to provide better customer service and simultaneously streamline its internal operations. This effort has been hampered by ambiguities and conflicts in the wording of existing recording statutes, the effect of which has placed recorders in the problematic and awkward role of regularly attempting to identify and enforce execution or other substantive legal requirements and to read and attempt to interpret the intent of cumbersome legal documents. SB283/HB491 would bring much needed definition and clarity to the basic acceptance criteria used by recorders to determine document recordability. Further, it replaces an unwieldy and restrictive document classification scheme with a broad provision that essentially allows any document to be recorded if it meets the basic minimum acceptance criteria outlined in the revised provisions. SB283/HB491 also makes minor housekeeping revisions in other recording statutes and eliminates several obsolete or redundant provisions. This is a much needed piece of legislation and would greatly improve a service that is used by tens of thousands of Alaskans each year.

Sectional Analysis:

SB283/HB491 provides some much needed clarification in the state's recording laws. The principal focus of this bill is to eliminate certain restrictive and ambiguous provisions in favor of a broader scope with delineated specific acceptance criteria for evaluating a document's recordability. As referenced in the department's fiscal note, the section anticipates substantial time savings would be generated as a result of implementing the provisions of this bill in its daily workflow. Specifically, the time savings are estimated at approximately three per cent of the total rejection process, and 5.6 per cent of the examination and recording process. In terms of total front line staff time, this equates to approximately \$140.0 annually (based on current personnel costs). The long term effect of this measure will ultimately reduce personal services costs and staffing throughout the section, while simplifying and streamlining the recording process for all Alaskans. While there would also be immediate savings recognized as well, the section would need to redirect such resources toward the resolution of long-standing preservation and archival deficiencies (as detailed in a 1992 Ombudsman's investigative report) for at least a three year period.

A section by section analysis begins on the next page.

The following is a section by section analysis of SB283/HB491:

Section 1. Providing copies of mining documents to the Division of Mining in the Department of Natural Resources has long been a function of the Recorder's Office. The minor wording changes in AS 40.05.020 better reflect the actual process in practice. Copies of all documents for the preceding month are forwarded to the Division of Mining by the tenth of the month. It is impractical and often impossible to perform this function on the first day of the month because of higher priority processing requirements mandated by the recording statutes. Copies of only those documents indexed into the system as "Mining" documents are provided, pursuant to a recent understanding reached with the recipient of the copies, the Division of Mining. The current statute requires recorders to provide copies of "every other document affecting title or possession of existing mining properties." While most mining related documents are indexed as such, many other documents can and do affect mining properties as well. This requirement is so broad that it is impossible for recording staff to meet without requiring them to read and interpret the intent of every single document submitted into the recording system. The recommended changes reflect the process as it exists in practice.

Section 2. The minor wording changes in AS 40.17.020(a) and (b) place the burden of determining the proper recording district for conveyance documents on the party presenting the document for recording. Existing law leaves recording staff in the untenable position of having to verify the physical location of the legal descriptions provided on conveyance documents in addition to reviewing the document for minimum acceptance criteria. The recorder's function is not to determine where a property is physically located, but merely to place recordable documents into the public record per the customer's request. If a conveyance document is presented to the wrong recording district, it could still be recorded in that district (so long as minimum acceptance criteria is met). If a conveyance document must appear on record in the recording district where land affected by the conveyance is located, the responsibility for ensuring delivery to the proper recording district should fall on the person offering the document for recordation. However, delivery of a conveyance document or any other document to another recording district should not preclude its recordation if minimum acceptance criteria are met.

Section 3. This section represents the very heart of SB283/HB491. It serves to repeal AS 40.17.030 in its entirety (a statute that contains many ambiguities and is exceedingly difficult to administer) and reenacts it with specific and identifiable requirements that every document must meet to be eligible for recording. The bill also incorporates several basic recording requirements that have previously been identified only in regulation. By doing so, the bill provides a concrete and specific listing of the requirements that every document must meet before it is eligible for recording, without regard to what any individual document is intended to accomplish.

AS 40.17.030(a)(1). As an example, currently AS 40.17.030(b) requires a document to contain a signature and/or acknowledgement "only when required for the specific document by this chapter or other law." This language has often sent recorders on a lengthy research mission to determine if any other provision of AS 40.17 or any other law might require that particular type of document to be signed or contain an acknowledgement. SB283/HB491 specifically states that a document must contain original signatures unless it falls within the exception provided for certified documents. Another revision discussed below (AS 40.17.110) identifies the specific documents that must contain an acknowledgement.

AS 40.17.030(a)(2) and (a)(3) are unchanged from current law. They appear in current law as AS 40.17.030(a)(1) and (a)(2). It is mandatory that recorded documents meet legibility standards in order to assure the highest quality images can be preserved in the permanent public record.

AS 40.17.030(a)(4) incorporates a regulatory provision that a document must contain a title reflecting the overall intent of the document in order to be eligible for recording. Documents are indexed into the system with a document type code and title. This requirement is necessary to ensure consistency in indexing. Recorders should not have to look beyond the title of a document to determine the function of a particular document.

AS 40.17.030(a)(5) is slightly modified from the present language of AS 40.17.030(a)(4). Currently, the statute allows indexing information to accompany a document or be included in it. Because cover letters or other information accompanying a document are frequently not recorded, the public record may appear to be incomplete. It is desirable that all indexing information (such as names of grantors and grantees) be included in the document being recorded. This ensures a completeness in the public record that is not currently possible.

AS 40.17.030(a)(6) incorporates a regulatory provision that requires a document to contain the book and page of a prior instrument that it amends, extends, modifies, etc. While not the primary research information in the recording system, prior book and page references streamline the research process for the public and are hugely popular in daily use. Inclusion of the book and page information also ensures a more complete and accurate public record.

AS 40.17.030(a)(7) is slightly modified from the present language of AS 40.17.030(a)(5). Currently, the statute allows "return to" information to accompany a document or be included in it. Because letters or notes reflecting verbal instructions are frequently not recorded, this information does not always appear in the public record. "Return to" information reflects the intended disposition of a document after the recording process is complete. It is desirable that this information be included in the document being recorded. This ensures a completeness in the public record that is not currently possible.

AS 40.17.030(a)(8) is modified from the present language of AS 40.17.030(a)(6). Currently, the statute requires a document to be accompanied by or include the mailing addresses of all persons named in the document who grant or acquire an interest under the document if it is a conveyance. SB283/HB491 requires such mailing addresses to be contained in the document (again the intent is to ensure more completeness in the information contained in the public record), and also limits the requirement to deed transactions. The existing statute applies to all "conveyance" documents, a broad term that encompasses many different types of documents, including deeds of trust, leases, easements, etc. It is our understanding that this provision was originally enacted as a means of providing a source of information to municipalities to keep property tax rolls current. The recording section provides copies of deed transactions on a monthly basis to all taxing authorities who request them, and we have been informed that this adequately meets the needs of the assessors and taxing authorities who use this service. AS 40.17.030(a)(8) simply requires that mailing addresses be contained in deed transaction documents as these are the only documents transmitted to the taxing authorities. If addresses are not contained in such documents, they do not appear in the public record anywhere.

AS 40.17.030(a)(9) incorporates a regulatory provision that requires a document to be accompanied by or contain the name of the recording district in which it is to be recorded. Because many recording offices process documents for multiple recording districts, it is essential that the customer identify the specific recording district that applies to a document, even if it is not stated in the document itself. This requirement is essential to ensure proper processing of a document within the system.

AS 40.17.030(a)(10) requires a document to be accompanied by the applicable recording fee set by regulation. This is part of the same provision currently appearing in AS 40.17.030(a)(3). SB283/HB491 also expands the fee provision to indicate that separate recording fees apply to multiple recordings of the same document, if multiple recording is requested by the customer. Documents frequently are presented with multiple functions appearing in their titles. If the customer wants the same document to be recorded for more than one purpose, a separate fee applies to each recording.

AS 40.17.030(b) incorporates and expands upon a regulatory provision allowing certified copies to be recorded and specifying the limited requirements they must meet to be eligible for recording. As is current practice, certified copies need only meet legibility, return to, recording district and fee requirements. Further, the provision would apply to any certified copy from any governmental office. Current law presently contains various restrictive language on the types of certified copies that can be recorded.

AS 40.17.030(c) is a holdover from the current classification statute where it appears as AS 40.17.110(b)(10). It covers those rare circumstances where the document submitted for recording is neither an original nor a certified copy from a government agency. This provision contains the requirements necessary for a conformed copy of a document to be eligible for recording.

AS 40.17.030(d) is slightly modified from the current provision, also appearing as AS 40.17.030(d). It allows the recorder to prescribe the style, size, form and quality that documents or plats must meet to be recordable. Currently, such details are set out in regulation and include document and plat sizes, and acceptable media for plats and other drawings. As new technology becomes available, such requirements may need further refinement in terms of type size, margin requirements, etc. This statute allows a flexibility to prescribe such standards via the regulatory process.

Section 4. AS 40.17.035 is largely unchanged from current law. The wording change in (2)(E) indicates that a certified copy may be from any government office and must meet the basic recording requirements identified for certified copies in AS 40.17.030(b). Recorders cannot reject such certified copies if those requirements are met. Additionally, subsection (3) expands the present wording to emphasize that a document can be recorded for more than one purpose if the applicable fee is paid for each recording.

Section 5. Because the classification statute in AS 40.17.110 is proposed to be repealed, the reference to that statute is deleted in AS 40.17.060. The grandfather provision basically extends to any document that was executed in accordance with the law in effect at the time it was executed.

Section 6. As noted above, the extensive classification provisions of AS 40.17.110 are proposed to be repealed. SB283/HB491 then reenacts this statute with a broad all-encompassing authorization for document recording, and sets out certain additional requirements for specific document types. Subsection (a) provides that any document can be recorded if it meets the basic criteria identified in AS 40.17.030, but if it is a certain type of document (in subsections b through d) it may have additional recording requirements which are also identified. Subsection b specifically indicates which documents must be acknowledged. From an operations perspective, this is far better than the current provision of AS 40.17.030(b) which says a document must be acknowledged only if "required for the specific document by this chapter or other law." As noted elsewhere in this analysis, the uncertainty of this language frequently sends recorders on a labor-intensive research mission to try to locate other law that might apply and require an acknowledgement. This proposed bill identifies specific types of documents that must be acknowledged. However, the bill does indicate that a "conveyance" must be acknowledged, but does not provide specificity in identifying the particular document types that could be characterized as conveyances. This must be regarded as a limitation of the proposed bill, and will be a continuing gray area for recording staff until it can be clarified in regulation. Nevertheless, the proposed bill offers significant benefits to streamlining the recording process. If additional recording criteria apply to a particular type of document, they are delineated in SB283/HB491, e.g. subdivision plats, which must comply with AS 40.15, and declarations which must comply with AS 34.08.090(b). In this fashion, all known recording requirements can be identified, and the recording staff will no longer be mystified by the ambiguities of current law.

Section 7. This provision of the departmental authorization is included to denote that the recording fees are prescribed by regulation, and that separate fees do apply to documents that are recorded separately for multiple purposes.

Section 8. AS 44.37.027 is added to the departmental authorization to denote that the Uniform Commercial Code (UCC) central filing system is a function of the Department of Natural Resources. While this function was transferred by Executive Order to DNR many years ago, the departmental organizational statutes still only address the recording functions. This provision makes it clear that the department must maintain the UCC central filing office and adopt any necessary regulations regarding such records.

Section 9. This slight wording change in AS 45.09.401 is necessary to correct an ambiguity that causes considerable confusion for UCC customers. Currently, the statute has two paragraphs addressing local filings (in the recording district offices), and a provision that states "in all other cases, in the office of the Department of Natural Resources." The confusion arises because the local filing offices are also administered by the Department of Natural Resources. Many customers erroneously believe if their document is filed with any DNR office, it will suffice as a perfected filing, even if it addresses types of collateral that require filing with the central office. SB283/HB491 clearly emphasizes that in all other cases, the filing is to be in the "central filing office" of the Department of Natural Resources.

Section 10. Slight wording changes are incorporated into AS 45.09.402 regarding UCC financing statements. Subsection (c)(3) specifies that fixture filings are recorded (not filed) documents.

Section 11. AS 45.09.407 is clarified to provide that search requests must be submitted in writing. Additionally, the filing officer shall indicate whether a "currently active" financing statement exists for the particular debtor whose name is requested to be searched. Current statute requires the filing officer to indicate whether "presently effective" financing statements exist for the particular debtor. UCC search products delineate in detail all active filings and subsequent actions relative to a specific debtor name, but there are a lot of other issues that may determine whether a statement is "presently effective" in the legal sense, i.e. bankruptcy, improperly prepared statement, filing in wrong office, etc. Filing officers can provide a certification that indicates all active filings for that debtor are listed, but should not be required to state that they are "presently effective financing statements." By listing a filing on a response to a search request, the filing officer is only identifying its existence in the public record, not making assurances as to its effectiveness or compliance with the requirements of the Uniform Commercial Code.

Section 12. AS 45.05.030 is proposed to be repealed. There is no assurance that a copy presented by the customer is a true copy of the original document unless that copy is produced by the recorder. Recorders are required to prepare copies of all mining documents for the Division of Mining on a monthly basis. There is no need for customers to be providing copies of unrecorded documents that are not even used.

AS 40.17.040(b) is proposed to be repealed. It contains specific directions for indexing a specific type of document, a declaration. Providing indexing directions in statute for one specific document type to the exclusion of all others is inappropriate. Indexing procedures are best left to the recording system management, which establishes such internal indexing procedures for all document types on a consistent basis statewide.

AS 44.37.025(d) is proposed to be repealed. This statute requires the recording districts to supply the Department of Commerce with reports and copies of conveyances to non-resident aliens. The Department of Commerce has previously indicated that these reports and copies are unnecessary and would like them to be discontinued.

Section 13. This transitional provision allows the department to adopt regulations necessary to implement the changes in Sections 2 through 8 above. Recording section management states that these changes will likely not require additional new regulations. A current regulatory package in progress is not expected to be affected by these changes.

Sections 14 and 15. While the transitional provision regarding regulations would take effect immediately, the effective date of the Act would be July 1, 1996.

SB

284

FISCAL NOTE

No. 1
 Bill Version: SB 284
 (S) Publish Date: 2/9/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____ Department: Commerce and Economic Development
 Title: Four dam pool transfer fund BRU: AEA
 Component: AEA
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 1948

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (Four dam pool transfer fund)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The bill provides funding for repairs and maintenance of the four dam pool project by decreasing the amount of funds appropriated from the four dam pool transfer fund to the power cost equalization and rural electric capitalization fund; the Southeast energy fund; and the project fund.

Prepared by: William R. Snell, Executive Director Phone: (907)269-3000
 Division: AEA Date: February 6, 1996
 Approved by Commissioner: William L. Hensley Date: 2-6-96
 Agency: Commerce and Economic Development

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FISCAL NOTE

No. 2

Bill Version: SB 284

(S) Publish Date: 2/9/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: Draft Bill Dept. Affected: C & RA
 Title: "An Act relating to the Four Dam BRU: Rural Energy Programs
Pool Transfer Fund and the Power Development Fund Component: Power Cost Equalization
 Sponsor: Rules
 Requester: Governor COMPONENT SERIAL NO. 1965

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1089)			(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)
-----------------------------	--	--	-----------	-----------	-----------	-----------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1090 FDPTF			(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division of Energy assumes that the Four Dam Pool Transfer Fund (FDPTF) will receive debt service repayments, reduced by \$4 million, effective FY99.

The 40% allocation from the FDPTF to the Power Cost Equalization and Rural Electric Capitalization Fund (PCE & RECF), AS 42.45.100, directly affects the monies that would be allocated to the Power Cost Equalization (PCE) on a 1:1 ratio, to levelize the impact on rural electric utilities and their customers participating to PCE. This projected reduction could affect the PCE program for eight consecutive years. With these reductions, the PCE & RECF is expected to be exhausted during FY2000. PCE program funding is hoped to be \$17 million per year from FY97 through FY2000 - after that, assuming that the net available debt service from the Four Dam Pool is \$8 million per year, the funds available for PCE would be about \$3.2 million per year.

Prepared by Gloria Manni, Assistant Director
 Division Energy
 Approved by Commissioner [Signature]
 Agency Energy

Phone: 269-4642
 Date: 2/6/96
 Date: 2/6/96

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FISCAL NOTE

No. 3

Bill Version: SB 284

(S) Publish Date: 2/9/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: Draft Bill Dept. Affected: C&RA
 Title: "An act relating to the Four Dam Pool Transfer Fund and the Power Development Fund" BRU: Energy Operations
 Component: Southeast Energy Fund
 Sponsor: Rules
 Requester: Governor COMPONENT SERIAL NO. 1935

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
100 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1090 1090 FDPTF			(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)
TOTAL	0.0	0.0	(1,600.0)	(1,600.0)	(1,600.0)	(1,600.0)

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division of Energy assumes that the Four Dam Pool Transfer Fund (FDPTF) will receive debt service repayments, reduced by \$4 million, effective FY99; the project reduction is assumed to affect the fund for about 8 years.

Reduction of the 40% allocation from the Four Dam Pool Transfer Fund to the Southeast Energy Fund, As 42.45.040, reduces the monies available for grants to utilities participating in the development of the power transmission intertie between the Tye Lake and Swan Lake hydroelectric projects. This reduced funding may slightly impact development of the project. However, Tye Lake and Swan Lake are part of the Four Dam Pool and they may benefit from the debt service reduction, in that the reduced amount will pay for Four Dam Pool projects repairs/improvements.

Prepared by: Gloria Manni, Assistant Director
 Division: Energy

Phone: _____
 Date: _____

Approved by Commission: [Signature]
 Agency: _____

Date: 2.6.96

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FISCAL NOTE

o. 4

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SB 284
(S) Publish Date: 2/9/96

Revision Date: Draft Bill Dept. Affected: C&RA
 Title: "An act relating to the Four Dam Pool Transfer Fund and Power Development Fund." BRU: Energy Operations
 Sponsor: Rules Component: Power Project Fund
 Requester: Governor COMPONENT SERIAL NO. 1935

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING N/A	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES N/A						
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CHANGE IN REVENUES ()	0.0	0.0	(800.0)	(800.0)	(800.0)	(800.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division of Energy assumes that the Four Dam Pool Transfer Fund (FDPTF) will receive debt service repayment, reduced by \$4 million, effective FY99.

Reduction of the 20% allocation from the Four Dam Pool Transfer Fund to the Power Project Fund, AS 42.45.010 (PPF) reduces the monies available in the PPF for loans to utilities or project developers for energy projects. Given the ever decreasing availability of other funding sources for energy projects, especially General Fund moneys, the existence of the PPF is very important to the rural electric utilities, especially those that cannot readily borrow from financial institutions.

The reduction assumed in this note will affect the PPF for about eight consecutive years.

Prepared by: Gloria Mangis, Assistant Director Phone: _____
 Division: Energy Date: _____
 Approved by Commissioner: [Signature] Date: 2. 29. 96
 Agency: LAND-COTTEN

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/9/96

FURTHER: State Affairs
Finance

Date of 5-Day Notice: 2-29-96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-11-96

The Resources Committee considered SB 284

Relating to the four dam pool transfer fund and the power development fund.

and recommends:

- be replaced with CS SB 284 (DFS)
- adopt previous CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Rick Halford</i>	✓		
		<i>Debbie</i>	✓		
		<i>Christy Todd</i>	✓		
		<i>Don</i>	✓		
		<i>Debbie</i>	✓		
CHAIR: <i>Baron A. Swan</i>		CHAIR: <i>Debbie</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Commerce	2/9/96	✓	
C+EA/PCE	4/9/96	✓	
C+EA/Southeast Power Fund	4/9/96	✓	
C+EA/Power Project Fund	2/9/96	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill




Alaska State Legislature

Official Business

State Capitol
Juneau AK 99801

MEMO

TO: Terry Cramer, Legislative Counsel
Legal Services
via fax: X2029

FROM: Annette E. Kreitzer, Aide to 
Senate Resources Committee

DATE: April 10, 1996

RE: CS SB 284 (RES) - FINAL

The Resources Committee adopted and passed GS2030NG dated 4/9/96 today. Please prepare a FINAL Resources Committee Substitute for SB284 including the following amendment to that CS.

Page 3, Lines 4-5:

DELETE: [THE EFFECTIVE DATE OF THIS BILL SECTION]

Insert: May 1, 1996

Adopted 5-1 4-9-96

WORK DRAFT

WORK DRAFT

WOKK DRAFT

9-GS2030\G
Cramer
4/9/96

CS FOR SENATE BILL NO. 284(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to bonds issued to repair, improve, or maintain the four dam
2 pool; and relating to the four dam pool transfer fund and the power
3 development fund."

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

5 * Section 1. PURPOSE. (a) The purpose of this Act is to facilitate the issuance of bonds
6 or other debt by the Alaska Energy Authority so that needed repairs can be made to the
7 hydroelectric facilities that make up the initial project.

8 (b) It is the intent of the legislature that the authority and the purchasing utilities
9 continue to negotiate in good faith with respect to the transfer of ownership of the initial
10 project to the utilities, and that a transfer plan or other long-term solution to the economic
11 difficulties of the initial project be presented to the Twentieth Alaska State Legislature.

12 (c) In this section,

13 (1) "initial project" means the power project described as the initial project in
14 AS 44.83.398(a), consisting of the Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake

1 hydroelectric facilities;

2 (2) "purchasing utilities" means the City of Ketchikan, doing business as
3 Ketchikan Public Utilities; the City of Wrangell, doing business as Wrangell Municipal Light
4 and Power; the City of Petersburg, doing business as Petersburg Municipal Power and Light;
5 Copper Valley Electric Association, Inc.; and Kodiak Electric Association, Inc.

6 * Sec. 2. AS 42.45.050(b) is amended to read:

7 (b) Subject to appropriation, the department shall transfer the balance of the
8 four dam pool transfer fund annually as follows: [EACH MONTH IN
9 ACCORDANCE WITH THIS SUBSECTION. SUBJECT TO APPROPRIATION]

10 (1) first, to the power development fund (AS 44.83.382) in the
11 amount, if any, necessary to pay debt service on loans or on bonds issued by the
12 Alaska Energy Authority, only if the proceeds of those loans or bonds were used
13 for the purpose of repairing, improving, or maintaining the initial project as
14 defined in AS 44.83.398;

15 (2) next, the remaining balance, if any, as follows:

16 (A) 40 percent of the balance in the four dam pool transfer fund
17 shall be transferred to the power cost equalization and rural electric
18 capitalization fund to be used for power cost equalization and rural electric
19 projects;

20 (B) [(2)] 40 percent of the balance in the four dam pool transfer
21 fund shall be transferred to the Southeast energy fund to be used for power
22 projects for utilities participating in the power transmission intertie between the
23 Swan Lake and Tyee Lake hydroelectric projects; and

24 (C) [(3)] 20 percent of the balance in the four dam pool transfer
25 fund shall be transferred to the power project fund to be used for statewide
26 utility projects.

27 * Sec. 3. AS 44.83.100(b) is amended to read:

28 (b) Bonds shall be authorized by resolution of the authority, and shall be dated
29 and shall mature as the resolution may provide, consistent with the requirements of
30 this subsection [EXCEPT THAT NO BOND MAY MATURE MORE THAN 50
31 YEARS FROM THE DATE OF ITS ISSUE]. Bonds shall bear interest at the rates.

1 be in the denominations, be in the form, either coupon or registered, carry the
 2 registration privileges, be executed in the manner, be payable in the medium of
 3 payment, at the places, and be subject to the terms of redemption which the resolution
 4 or a subsequent resolution may provide. A bond issued on or after ^{May 1, 1996} the effective date
 5 of this bill section whose proceeds were used for the purpose of repairing,
 6 improving, or maintaining the initial project as defined in AS 44.83.398 must
 7 mature within eight years from the date of issue. Other bonds issued under this
 8 subsection must mature within 50 years from the date of issue.

Len. Fran

9 • Sec. 4. AS 44.83.384(a) is amended to read:

10 (a) The fund may be used by the authority to provide money for

11 (1) the defeasance of bonds, or the payment of debt service on loans
 12 for or on an issue of bonds sold in connection with a power project constructed or
 13 acquired before August 11, 1993;

14 (2) the cost of operating, repairing, improving, and maintaining power
 15 projects constructed or acquired before August 11, 1993; and

16 (3) debt service on power projects constructed or acquired before
 17 August 11, 1993.

Am #1 May, 1996 passed
 Am #2 8-10 years period
 by L. Nelson