

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10732 HOUSE COMMUNITY & REGIONAL AFFAIRS



# Alaska State Legislature

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

**Representative Carl Morgan**  
State Capitol Building, Room 408  
Juneau, AK 99801  
907-465-3882

### Sectional Analysis

### HCS CSSB 183 (CRA)

#### Section 1

Encompasses language from **SB 63**  
Relating to municipal property taxation in annexed and detached areas.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22<sup>nd</sup> Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

This section of the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation or incorporation. An exception would be if the annexation were effective on January 1<sup>st</sup> of that year.

For detached areas, this section clarifies that taxes levied on property prior to the date of the detachment remain valid.

#### Sections 2 through Sections 4.

Relates to **HB 38** relating to mergers and consolidations of municipalities

Title 29 allows municipalities to merge by consolidation or unification. Through the years many communities have attempted to merge through this process, some successfully, some not so successfully. It is through those efforts that deficiencies in fair voting practices surrounding municipal mergers have come to light.

HB 38 seeks to establish a more fair and timely process in the petition and election of municipal mergers by limiting the time allowed for gathering signatures as well as setting clear requirements for how the outcome of the election is to be determined.

#### **Section 5**

Encompasses all of the language from **CSSB183 (STA)** authorizing certain boroughs to use revenue collected on an areawide or non-areawide basis for economic development.

Current state law places a limitation on second-class boroughs with respect to expending funds designated for economic development.

Second-class boroughs may only use these funds on a non-areawide basis. This means that the Fairbanks North Star Borough can only deploy these funds on projects located outside the city limits of Fairbanks and North Pole.

#### **Section 6**

Relates to **HB 38**

**APPLICABILITY.** Stating that sections 2-3 do not apply to a merger or consolidation petition filed with DCED before the effective date.

And, section 4 does not apply to an election held as a result of a petition filed with DCED before the effective date of this act.



# ALASKA STATE LEGISLATURE

---

SENATOR THOMAS H. WAGONER  
CO-CHAIR, SENATE TRANSPORTATION COMMITTEE  
VICE-CHAIR, SENATE RESOURCES COMMITTEE  
VICE-CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

DATE: February 5, 2004  
TO: Rep. Carl Morgan, Chair  
House Community & Regional Affairs Committee  
FROM: Senator Tom Wagoner *Tom*  
RE: CS SB 63 Hearing Request

---

I respectfully request that you schedule this bill for a hearing in your committee at your earliest convenience.

As you know, this bill is at the direct request of the Local Boundary Commission as a result of issues raised during the Homer annexation process last legislative session.

I am previously submitted information for your bill packet.

Thank you for your time and consideration.



ALASKA STATE LEGISLATURE  
SENATE BILL NO. 63

HISTORY IN THE SENATE

HISTORY IN THE HOUSE

2003 Read first time and referred to:

2/7 CRA, STA

4/28 CRA RPT( ) CS 2 DP 2 NR \_\_\_ DNP \_\_\_ AM  
 \_\_\_ New Title \_\_\_ Same Title \_\_\_ Previous FN  
 \_\_\_ FN 1 OFN To STA

5/1 STA RPT(STA) CS 2 DP 1 NR \_\_\_ DNP \_\_\_ AM  
 New Title \_\_\_ Same Title \_\_\_ Previous FN  
 \_\_\_ FN \_\_\_ OFN To RisCal

\_\_\_ RPT( ) CS \_\_\_ DP \_\_\_ NR \_\_\_ DNP \_\_\_ AM  
 \_\_\_ New Title \_\_\_ Same Title \_\_\_ Previous FN  
 \_\_\_ FN \_\_\_ OFN To \_\_\_

\_\_\_ Rules Calendar( ) CS \_\_\_ AM \_\_\_ Other  
 \_\_\_ New Title \_\_\_ Same Title \_\_\_ Previous FN  
 \_\_\_ FN \_\_\_ OFN

5/4 Read second time

5/4  CS Adopted (STA)  New Title  
 \_\_\_ Amended Not Advanced

5/5 Read third time

\_\_\_ Letter of Intent adopted  
 \_\_\_ Return to second for specific amendment

5/5 PASSED EFD Same \_\_\_ or  
 Yeas 18 Yeas  
 Nays 0 Nays  
 Excused 1 Excused  
 Absent 1 Absent

Reconsideration  
 Reconsideration not taken up

PASSED EFD Same \_\_\_ or  
 Yeas \_\_\_ Yeas  
 Nays \_\_\_ Nays  
 Excused \_\_\_ Excused  
 Absent \_\_\_ Absent

5/5 Reported correctly engrossed  
 Signed by President, to House  
Kirsten Waid  
 Secretary of the Senate

2003 Read first time and referred to:  
CRA

\_\_\_ RPT CS( ) \_\_\_ New Title  
 \_\_\_ DP \_\_\_ DNP \_\_\_ NR \_\_\_ AM  
 \_\_\_ FN \_\_\_ OFN \_\_\_ Previous FN

\_\_\_ RPT CS( ) \_\_\_ New Title  
 \_\_\_ DP \_\_\_ DNP \_\_\_ NR \_\_\_ AM  
 \_\_\_ FN \_\_\_ OFN \_\_\_ Previous FN

\_\_\_ RPT CS( ) \_\_\_ New Title  
 \_\_\_ DP \_\_\_ DNP \_\_\_ NR \_\_\_ AM  
 \_\_\_ FN \_\_\_ OFN \_\_\_ Previous FN

Read second time  
 CS( ) Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
 Yeas \_\_\_ Yeas  
 Nays \_\_\_ Nays  
 Excused \_\_\_ Excused  
 Absent \_\_\_ Absent

\_\_\_ Intent adopted

Reconsideration  
 Reconsideration not taken up

PASSED ON RECON. EFD Same \_\_\_ or  
 Yeas \_\_\_ Yeas  
 Nays \_\_\_ Nays  
 Excused \_\_\_ Excused  
 Absent \_\_\_ Absent

\_\_\_ Intent adopted

Reported correctly engrossed, signed by the Speaker  
 and returned to the Senate

\_\_\_  
 Chief Clerk of the House



# Alaska State Legislature

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

**Representative Carl Morgan**  
State Capitol Building, Room 408  
Juneau, AK 99801  
907-465-3882

Date: May 8, 2003

To: Tam Cook, Director  
LAA Legal Services

RE: SB 63 Legal Opinion

Tam,

Could you please provide me with a legal opinion on SB 63 "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."

I am concerned that this bill broadens the authority of the LBC in any way. My concern comes from the current authority in statute and the broad authority given the LBC through regulation.

This bill may be brought in the House Community and Regional Affairs Committee next week; I would like to see what your opinion is prior to this meeting. I know you are very busy as the session draws near, but I do need this at the earliest convenience and would greatly appreciate your help.

Thank you for your assistance, I look forward to your opinion. If you have any questions please contact my staff Sue Stancliff at #3882.

# 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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 9, 2003

**SUBJECT:** Property taxation and transitional provisions in new municipalities or municipalities with boundary changes (CSSB 63(STA))

**TO:** Representative Carl Morgan  
Co-chair, House Community and Regional Affairs Committee

**FROM:** Tamara Brandt Cook *TBC*  
Director

You ask whether CSSB 63(STA) increases the power of the Local Boundary Commission. Bill secs. 1, 2, 4, 6 and 7 explicitly permit the commission to impose transitional provisions when a municipality incorporates or undergoes various types of boundary changes. However, this is probably not an expansion of the power of the commission in these situations because the commission most likely enjoys the implied power to address the transitional measures that are necessary to accomplish the boundary changes that are authorized by statute now.

Bill secs. 3 and 5 restrict the power of a newly created municipality to immediately impose property taxes and the power of a municipality that annexes territory to immediately impose property taxes in the newly annexed area. In sec. 5 there is also a provision that ensures that the taxes levied by a municipality in property before it is detached remain valid. The Local Boundary Commission may not change these transitional taxing provisions and, in that regard, the power of the commission is reduced in this bill.

TBC:lmb  
03-185.lmb

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

---

### Sponsor Statement

### CSSB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

This bill proposes new statutory language to clarify when a municipality may tax an area that was annexed. It also clarifies the question of property taxes in a detached area and in newly incorporated areas. Finally, it provides for specificity regarding that the Local Boundary Commission's authority in regards to transition provisions.

Currently, there is uncertainty with regard to the authority of municipal governments to levy property taxes in newly annexed territory, detached areas, and in newly incorporated areas.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22<sup>nd</sup> Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

If adopted, the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation or incorporation. An exception would be if the annexation were effective on January 1.

For detached areas, the bill clarifies that taxes levied on property prior to the date of the detachment remain valid.

The language regarding clarification of the authority of the LBC for transitions was inserted at the request of the Local Boundary Commission.

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

### Sectional Analysis

#### CSSB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

- Sec. 1:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (reclassification of second class to first class city).
- Sec. 2:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (petition procedure for municipal incorporation).
- Sec. 3:** This is a new section to Title 29, specifying that newly incorporated property may not be assessed or property taxes collected before January 1 of the year immediately following the year in which the incorporation takes effect. The exception is in the event that the incorporation takes effect on January 1.
- Sec. 4:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission as part of their authority.
- Sec. 5:** This is a new section to Title 29, specifying that (a) annexed or detached property may not be assessed or property taxes collected before January 1 of the year immediately following the year in which the action takes effect. The exception is in the event that the action takes effect on January 1, and (b) defining property tax allocation for detachments.
- Sec. 6:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission (under "transition" section).
- Sec. 7:** Amends existing statutes to authorize transition requirements by the Local Boundary Commission as part of their authority (for dissolution petitions).

SA CSSB 63 (STA) 5-02-03 mj

23-LS1713\A  
Cook  
2/11/04

**HOUSE CONCURRENT RESOLUTION NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Introduced:  
Referred:**

**A RESOLUTION**

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**  
2 **Legislature, concerning Senate Bill No. 63, relating to municipal property taxation in**  
3 **annexed, detached, and newly incorporated areas.**

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

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of  
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding  
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 63, so that the  
8 title will read: "An Act relating to municipal property taxation in annexed, detached, and  
9 newly incorporated areas."

23-LS0489\X  
Cook  
2/11/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 63(CRA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to municipal property taxation in annexed, detached, and newly**  
2 **incorporated areas."**

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

4 **\* Section 1.** AS 29.05.140 is amended by adding a new subsection to read:

5 (f) Unless the incorporation takes effect on January 1, the newly incorporated  
6 municipality may not levy property taxes before January 1 of the year immediately  
7 following the year in which the incorporation takes effect.

8 **\* Sec. 2.** AS 29.06 is amended by adding a new section to read:

9 **Sec. 29.06.055. Property taxes in annexed or detached areas.** (a) Unless  
10 the annexation takes effect on January 1, the annexing municipality may not levy  
11 property taxes in an annexed area before January 1 of the year immediately following  
12 the year in which the annexation takes effect. However, notwithstanding other  
13 provisions of law, the municipality may provide services in the annexed area that are  
14 funded wholly or partially with property taxes during the period before the

1 municipality may levy property taxes in the annexed area.

2 (b) If an area is detached from a municipality, all property taxes that are levied  
3 by that municipality on property in the detached area based on an assessment that  
4 occurred before the effective date of the detachment remain valid. AS 29.45.290 -  
5 29.45.500 apply to the enforcement of those taxes.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB 63 (STA)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Municipal Annexations and Detachments RDU Community Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Senate Community & Regional Affairs  
 Requester Senate State Affairs Component No. 2703

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|  |            |            |            |            |            |            |
|--|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                  |            |            |            |            |            |            |
| 1003 GF Match                          |            |            |            |            |            |            |
| 1004 GF                                |            |            |            |            |            |            |
| 1005 GF/Program Receipts               |            |            |            |            |            |            |
| 1037 GF/Mental Health                  |            |            |            |            |            |            |
| Other (Specify Type-Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                           | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This legislation has no fiscal impact on this division.

Prepared by: Gene Kane, Director  
 Division: Community Advocacy  
 Approved by: Edgar Blatchford, Commissioner  
 Agency: Department of Community & Economic Development

Phone (907) 269-4580  
 Date/Time 2/11/04 3:16 PM  
 Date 2/11/2004

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

### AGENDA

State Capital 124  
February 19, 2004  
9:00 am – 10:00 am

- Call to Order
- SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENT
- Next meeting announcements - HB 431 Municipal Dividend Program next Thursday
- Adjourn

## Alaska State Legislature

State Capitol, Room 428  
Juneau, AK 99802  
Phone: 465-2689  
Fax: 465-3472  
Toll Free (800) 665-2689  
Representative\_Paul\_Seaton@legis.state.ak.us



345 W. Sterling Hwy.  
Suite 102B  
Homer, AK 99603  
Phone: 235-2921  
Fax: 235-4008

### **REPRESENTATIVE Paul Seaton**

District 35

The Local Boundary Commission already has the power to amend petitions and impose transition requirements for boundary changes. Although codifying these powers in the statutes would create additional clarity, removing this language from the bill will not diminish the LBC's ability to effect reasonable boundary changes. I believe leaving this controversial language in the bill may jeopardize its passage this session. I ask that the LBC Commissioners support a change in title and removal of the language referring to transition provisions and powers explicitly granted to the LBC. This compromise may secure final resolution of this longstanding ambiguity in state law concerning municipal property taxation. Thank you for considering my request. Please call me at 1-800-665-2689 if you have any questions.

Sincerely,

Representative Paul Seaton  
Alaska State Legislature  
House District 35

cc: Mary Griswold

## Alaska State Legislature

State Capitol, Room 428  
Juneau, AK 99802  
Phone: 465-2689  
Fax: 465-3472  
Toll Free (800) 665-2689  
Representative\_Paul\_Seaton@legis.state.ak.us



345 W. Sterling Hwy.  
Suite 102B  
Homer, AK 99603  
Phone: 235-2921  
Fax: 235-4008

### **REPRESENTATIVE Paul Seaton**

District 35

December 30, 2003

Dan Bockhorst  
Department of Community and Economic Development  
Division of Community Advocacy  
550 W. 7th Ave, Suite 1770  
Anchorage, Alaska 95501-3510

Dear Mr. Bockhorst,

I hope this letter finds you well and that you are enjoying the holidays. I am concerned about Senate Bill 63 (SB 63), which was introduced last session. To give you a little background on this bill, SB 63 was amended in Senate State Affairs, then passed the Senate and received a House Community and Regional Affairs (CRA) referral.

I understand that SB 63 has been held up in House CRA because the language relating to transition provisions and powers explicitly granted to the Local Boundary Commission (LBC) was found to be unacceptable. In the interest of moving this significant legislation forward towards a vote on the House floor, I am requesting that you ask the LBC Commissioners to consider supporting SB 63 without the language relating to transition provisions. The importance of this legislation is to establish clear, consistent, effective dates for changes in property tax jurisdiction in the event of annexation, detachment or incorporation.

As you may know, the Homer annexation was proposed to begin taxation of the incorporated areas on January 1st of the year following adoption of the incorporation. The public testimony and LBC commission staff's presentations purported a January 1st date. However, upon approval of the incorporation petition, the City of Homer started collecting taxes from the incorporated area mid-way through the year. This unexpected event greatly impacted the local service areas, which had adopted budgets based off collecting projected revenues from the incorporated areas through the end of that year. Therefore, the service areas lost significant revenues and created other operating difficulties due to shortage of funds. This unfortunate situation could have been avoided by waiting to begin taxing the incorporated areas until the annual budget cycle was concluded. This same issue may also be a concern for Anchor Point and other communities across the state that are considering incorporation.



Official Business

# ALASKA STATE LEGISLATURE

## SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Resources Committee
- Vice-Chair, Community & Regional Affairs
- Member, Legislative Council

Session: January – May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December

145 Main Street Loop; Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-8127

DATE: February 5, 2004

TO: House Members

FROM: Senator Tom Wagoner

A handwritten signature in black ink, appearing to read "Tom", written over the printed name "Senator Tom Wagoner".

RE: SB 183 and SB 63

---

I was disappointed by the comments made during yesterday's floor debate on SB 183.

SB 183 deals with an issue pertaining to Fairbanks. SB 63 deals with an annexation issue from Homer. They were and are two totally separate issues. The fact that a title change resolution was required should have been a clear indicator.

The House Community and Regional Affairs Committee took parts of SB 63 and placed it into SB 183 – deleting language that was requested by the Local Boundary Commission (LBC). I was not consulted about this "merger".

I had agreed to that language, as Chair of the Senate Community and Regional Affairs Committee, which sponsored SB 63. I asked the Commission to review the bill and provide me their suggestions, which I then included in the bill.

The Senate did not concur with these House changes in SB 183 for obvious reasons and asked the house to recede from their amendments last May.

During the interim, the Representative from Homer attended a LBC meeting and asked them to support removing the language. They agreed and it is reflected in their Report to the Second Session of the Twenty-Third Alaska State Legislature.

I had no part in this discussion before the Local Boundary Commission, I am no longer Chair of the Senate Community and Regional Affairs Committee, and Homer is not even in my district.

Ask yourself why I would want to get embroiled in this or assert a claim of ownership.

**Holm**

Thank you Mr. Speaker, thank you Mr. Majority Leader.

Today this is a simple roll back to SB 183.

We put in .. the House put in some language that came from another senate bill and the ... senator who wanted to put that bill into the other body...

I don't know how to say that ... the other body's representative wanted to put it in the other body .... wanted to have his own bill ... and so with that ... I would ask that we recede and just pass the bill for the second class boroughs.

Presently ... 2<sup>nd</sup> class boroughs don't have the opportunity to use ... nonareawide funds for areawide purposes and it is particularly ... difficult for .. my borough, the Fairbanks North Star borough and ... they really want this opportunity and ability to do so that so that we can have... the ability to promote ... projects that will increase economic activity in our boroughs by the use of nonareawide funds for areawide purposes ... and so with that, Mr. Speaker, I would ... ask the body to vote yes for receding.

**Kertulla:**

Thank you Mr. Speaker, you know ... I'm willing to do that but ... it's sort of a shame that this body does something that makes sense ... takes two good parts of bills and ... we get caught in the other body's shenanigans on whether or not somebody dotted their i's and crossed their t's on some sort of protocol that goes on on the other side

So I just think that this time it may not be so serious but we need to ... keep our own sense of what's right and if it's the right thing to do, we should not concur.

So today I'm willing to do it, but you know, we shouldn't be caught up in the other sides games.

Thank you.

**Seaton:**

Thank you Mr. Speaker ... I rise to support receding from this bill ... we have sections of two bills that were put together ... the ... if we recede we will hear that bill in it's entirety and ... on our side of the body which has not been done yet so I support this action.

**Rokeburg:**

Mr. Speaker I understand it's very difficult but we shouldn't be referring to other bills in the committee and so forth ... I know ... the circumstance is very difficult but ... be very careful.

**Kott:**

Your point of order is well taken. Representative Croft.

Croft:

The way out of that dilemma and I know it's .. difficult to say under the rule, but I mean, the purpose of the rule is that ... we have our own independent judgment ... there's no reason to ... refer to what the other body does or doesn't do because ... how would it possibly be relevant ... if we are going to look at an issue our self ... whether they voted 20 to nothing one way or the other or had a split is simply ...

The rules wanted us to concentrate on not ... having the other body's judgment pass for ours ... not just thinking well ... they liked it so we must.

They wanted to .. the rules wanted to make it irrelevant so that we looked at things fresh ... on the merits ... regardless of whether the other body liked it or not.

So... I mean ...I just propose ... the best way out of that is telling me why I should prefer .. the very short version ... to the one we had .. on the merits .. why is it better to have this provision out ... and I haven't got any of that argument yet ... now I apologize I was gone through a lot of this debate at the end of session for health reasons and so I'm catching up.

But it seems to me when ... we do our job right, is when we say this is a better version than that and here's why.

If we can't convince ourselves of that ... if it's in fact not true ... then we shouldn't recede. That's why we have a bi-cameral system ... that why we do this and ...there are provisions then to have a conference committee on it or whatever.

The reason it's been so difficult it seems to me on debating this ... is because what we're actually doing is improper under the rules ... what we're actually doing is saying, well ...they don't like it ... ok.

It's so hard to explain why we would take ... their version instead of ours because there is no meritorious reason to not ... we are simply acceding to their wishes and substituting for our judgment - theirs.

The reason it's so hard to talk about this bill under the rules is because what we are doing is improper under the rules.

We ought to ... and if anyone can correct me I welcome it ...

Why would it be better ... better public policy... a better decision ... our decision that we could explain to take the one version rather than the other.

And if you can't do that if it's simply ,, well, there, you know, who knows, they wanted it. That's not the reason ... that not what the constitution wants us to do here, that's not what the rules demand we do here ... and it's hard to explain because it's hard to ... justify under either the constitution or the rules.

.....

Debate about points of order, etc; at ease was taken, then back and voted on the bill.



## CHAPTER 3 POLICY ISSUES AND CONCERNS

To  
Mary Jackson

**CSSB 63(STA) "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."**

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

### **HB 38 "An Act relating to mergers and consolidations of municipalities."**

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCLD and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS Representative Carl Morgan, Chair

### AGENDA

State Capital 124  
February 12, 2004  
8:00 am – 10:00 am

- Call to Order

- SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENT

*New fiscal note is ~~to~~ because the one in your packet is on last years form.*

*at ease  
for 2 minutes*

- DEC – Low Sulfur Diesel Fuel

- Next meeting announcement

- Adjourn



## CHAPTER 3 POLICY ISSUES AND CONCERNS

**CSSB 63(STA) “An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas.”**

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

### **HB 38 "An Act relating to mergers and consolidations of municipalities."**

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCED and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).

# ALASKA STATE LEGISLATURE



## SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair  
Senator Kim Elton  
Senator Georgianna Lincoln  
Senator Gary Stevens

State Capitol, Room 427  
Juneau, AK 99801-1182  
Phone: (907) 465-4989  
Fax: (907) 465-4779

---

White Paper on SB 63

April 5, 2003

### Table of Contents

|  |   |
|--|---|
| SPONSOR STATEMENT.....   | 2 |
| BACKGROUND INFORMATION TO SB 63 .....                                      | 3 |
| Ambiguities in State law .....   | 3 |
| Public Policy Issues .....   | 5 |
| 1. Annexations/Detachments that involve other taxing<br>jurisdictions..... | 5 |
| 2. Annexations that do not involve other taxing jurisdictions.             | 5 |
| 3. Taxpayer expectations. ....   | 5 |
| LBC Stipulations on SB 63 .....  | 6 |

## SPONSOR STATEMENT

### SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

This bill proposes new statutory language to clarify when a municipality may tax an area that was annexed. It also clarifies the question of property taxes in a detached area.

Currently, there is uncertainty with regard to the authority of municipal governments to levy property taxes in newly annexed territory. The Local Boundary Commission has recommended clarification of this for several years.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22<sup>nd</sup> Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

If adopted, the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation. An exception would be if the annexation were effective on January 1.

For detached areas, the bill clarifies that taxes levied on property prior to the date of the detachment remain valid.

## BACKGROUND INFORMATION TO SB 63

As a background to discussion of SB 63, the minutes of the Joint meeting of Senate & House Community and Regional Affairs Committee of Feb 7, 2002 should be reviewed. The Local Boundary Commission (LBC) presented their 2002 Annual Report to the Legislature at that meeting.

The presentation included the following – verbatim from the minutes of that meeting.

(Continuation of Chair Kevin Waring's presentation.)

### Ambiguities in State law

At present, state statutes are unclear about municipal authority to levy property taxes during the period immediately following incorporation, boundary changes, dissolutions or reclassification. Specifically, the pertinent sections of the statutes do not clearly authorize or prohibit municipal governments that incorporate or change boundaries after January 1, but come into being during that calendar year, to assess, levy and collect taxes. The commission believes it would be beneficial to local governments to make the ground rules clear. Those issues are fully addressed on pages 28 and 29 of the annual report and they offer some draft legislation that was developed with the state assessor and some municipal assessors that would resolve this uncertainty

REPRESENTATIVE SCALZI asked what prompted the concern regarding levying property taxes after January 1.

DAN BOCKHURST said Homer provides an example. If approved, the annexation for the City of Homer, it will occur on March 9. There are some who assert that if property assessment value is fixed as of January 1 of each calendar year then that date also establishes a date by which a municipal entity has power to levy property taxes. If the area isn't in the corporate boundaries of the City of Homer on January 1 2002, then the question arises as to whether the City of Homer has the authority to levy property taxes for the period of time between March 9 and the end of the calendar or fiscal year. There is an Attorney General opinion that municipal governments have a duty to levy taxes on property that is annexed after January 1 but in time for the municipal government to place that property on the tax role. In many cases there is dispute and confusion among city and borough governments on this question and some insist that the territory must be within the jurisdiction on January 1 in order for it to be taxable for that period of time. The commission's proposal would provide a mechanism to resolve that ambiguity.

## AMBIGUITIES IN STATE LAW (-continued)

MR. WARING added it is easy to see what a fair outcome would be; that whichever government is providing services at the time should be entitled to a comparable share of the revenues. That outcome can be achieved with clarification in the statutes. The alternative is inevitably some litigation of the issue. Statutory clarification is a better resolution.

CO-CHAIRMAN TORGERSON commented he thought the commission already has broad based authority to accomplish this in their order for annexation or detachment. There may be a 45 day legislative review process but that is when the order becomes effective, not the effective date of stipulations that the commission may add to annexation. He said he's not sure they need legislation. Rather, "you just need to step out and do it."

MR. WARING said the legislation statutorily states that the commission has that discretionary authority to place conditions on boundary changes. He agreed they do have broad authority, but they are generally conservative about venturing beyond what they see in statute and regulation. They would feel more comfortable with a statutory statement that the Legislature agrees this is something they should do.

ALLEN TESCHE, LBC representative from the Third Judicial District, said his view of state statutes governing taxation is that they are specific and clear as to the process that should be followed. He too agrees that they would prefer having clear guidance from the Legislature on that issue rather than simply taking a position and waiting to see what the courts decide. Personally, he would rather see the issue addressed as a policy matter at the legislative level.

CO-CHAIRMAN TORGERSON said he disagreed but the question is whether they have the authority to put in the order when taxes would start being collected and when they wouldn't. The LBC isn't arguing whether they have the authority, they just choose not to exercise the authority.

MR. TESCHE said they question whether they have the authority in the first place and that is where the problem starts. He's not comfortable with the proposition that they have the authority.

The Commission again addressed the issue in the 2003 Annual Report. On page 84 of that report, under the section entitled "Ambiguities in State Law Concerning Municipal Property Taxation in Newly Annexed or Detached Areas" conditionally supported draft legislation presented by then Rep. Drew Scalzi. (SB 63 is based on that draft and comments related to LBC stipulations on the draft presented elsewhere.)

Clearly then, the Commission is uncertain with regard to it's authority in this matter.

## Public Policy Issues

For the purposes of the Senate Community and Regional Affairs Committee, the issue must be reviewed not only from the premise of what is or is not appropriate functions or duties of the LBC, but also in terms of public policy issues.

The public policy questions regarding this include the following.

### **1. Annexations/Detachments that involve other taxing jurisdictions.**

Using the Homer annexation as an example, an existing road service area was affected.

A service area develops an annual budget based on properties within their tax base. That budget necessarily includes operations affecting the entire service area, not just the properties that are eventually detached. The budget does not specify items like labor costs or equipment costs on a neighborhood or region basis; rather it is for the entire area.

Detaching property from a service area affects the budget because it changes the annual revenues that are anticipated by the service area. Predictability in revenue sources is a critical issue in determining annual budgets for service areas.

### **2. Annexations that do not involve other taxing jurisdictions.**

Annexation of properties that are not involved with a taxing jurisdiction do not have the impacts that are associated with properties that do have a taxing jurisdiction.

For example, City X is authorized to annex areas immediately adjoining it, but City X is located in the unorganized area. The adjoining property involved is not currently being assessed for governmental services by another taxing jurisdiction and thus, there is no conflict with the budgets or services as a result.

### **3. Taxpayer expectations.**

Taxpayers expect property assessments and tax bills in an orderly manner. Like governments, most people budget annually and an immediate increase in their property taxes would be unexpected and potentially pose a hardship.

Identifying a specific date for changes in mill rates establishes a taxing certainty for the affected taxpayer when their property taxes are changed as a result of an annexation or detachment.

This expectation is essentially universal – it would be of import to a property owner that is currently paying a mill rate in a service area as well as a property owner that would begin to pay a mill rate as a result of annexation.

### LBC Stipulations on SB 63

As was noted earlier, the 2003 Report to the Legislature included stipulations on the work draft that was provided them for review. (Note that SB 63 is based on the work draft and does not include the stipulations suggested by the LBC.)

The first stipulation was that the draft be modified to address municipal incorporations in a like manner. The second stipulation was that "it be understood that the legislation does not reduce the ability of petitions and/or the Commission to determine appropriate transition measures as outlined in AS 29.05.130-140 and 3 AAC 110.900."

This is puzzling, because they appear to be contradictory stipulations.

AS 29.05.130-140 pertains to integration of special districts and services area (.130) and Transition (.140).

Current language is specific to integration in new municipalities – that is, to new municipal incorporations.

The statutes specify a time specific, as is shown below:

Sec. 29.05.130. Integration of special districts and service areas.

- (a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation.

The language in SB 63 provides for a specific time frame – January 1 following the date of the annexation or detachment. Including municipal incorporation in this bill, with these time restrictions, would appear to be contrary to the provisions in 29.05.130.

It is not contrary in the respect that it is done within the two-year timeframe – certainly 9 months is within the 24 month time frame. It is contradictory in that it limits the transition ability of the LBC. It establishes a time specific for the transition time frame of "within two years".

In terms of the public's comfort level, it would probably be welcomed because they would have some definitive assurances of when their tax bills were due.

Clarifying by statute, in cases of incorporation, annexation, and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small, whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning.

Property affected by annexation or incorporation effective after June 15 is not taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. Municipalities are not expected to immediately provide the host of services typically associated with government; nor is it likely that a city would be financially overwhelmed to extend essential life and safety services to an annexed area during the relatively short time it will not collect property taxes. It is also important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan start-up money to newly incorporated cities. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. These measures help bridge the revenue gap.

Clear guidelines for municipal taxation authority will promote orderly municipal growth and will reduce the stress and contention associated with boundary changes. Please support CSSB 63 so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you.  
Mary Griswold  
Box 1417  
Homer

Mary Griswold CSSB 63 support 5/6/03

Please support CSSB 63, relating to municipalities' authority to levy property taxes in the initial period following annexation, detachment, or incorporation.

State statutes are unclear with respect to municipal authority to levy property taxes during an initial period following incorporation, annexation, or detachment. AS 29.45.110 establishes January 1 of the assessment year as the date properties shall be valued. AS 29.45.240(b) requires municipalities to determine the rate of levy before June 15 and to mail tax statements setting out the levy by July 1. The question is whether taxes accrue in full on January 1 when the valuation is set, or on the date the levy is determined. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

The question is important because most annexations are done through the legislative review process which means, if not denied, they become effective in early March following procedures established in Alaska's constitution. In most annexations to date, including all of those done in Palmer and Wasilla, the affected municipalities adjusted their tax structure the following January. However, because our taxation statutes do not specifically address annexations, the opportunity exists for a municipality to levy taxes on newly annexed properties between March and the levy date as long as the assessors have time to change the jurisdictions before the mailing deadline. This approach is very disruptive to affected governments and taxpayers.

There is no question that these statutes prevent municipalities from levying taxes in the same year for any annexation or incorporation that becomes effective after July 1.

As you might suspect, this issue came up with Homer's recent annexation. SB 63 will not affect Homer's case, but may save unanticipated disruption for affected parties in future annexations. Kachemak Emergency Service Area began its FY03 budget preparation using revenue projections from the borough finance department based on property values within the service area on January 1. In mid-April, 2002, well after the deadline for revising numbers in the preliminary budget document, the board learned they would suffer a 25% reduction in revenue because Homer requested that newly annexed property be added to its jurisdiction immediately, instead of waiting until 2003. It was a difficult decision for the borough administration, but in the end they decided to grant the request, based in part on the lack of clarity in Alaska Statutes.

KESA weathered this setback, but it made me realize how such a late revenue adjustment can seriously derail orderly budget planning. Service areas could face immediate personnel layoffs, difficult debt restructuring, and other drastic program cuts to comply with last minute revenue reductions.

Clarifying by statute, in cases of incorporation, annexation and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

Mary Griswold SB 63 support

Title 3 of the Alaska Administrative Code requires a prospective petitioner to prepare a draft annexation petition, including a transition plan, and conduct a public hearing before submitting a legislative review annexation proposal to the Department of Community and Economic Development. The best way to promote an orderly, efficient, and economical transfer of responsibilities is to set simple, straightforward ground rules. If everyone involved in a proposed annexation understands that revenue streams will shift on January 1 following an effective date, everyone can plan accordingly. The Administrative Code allows a transition period of up to two years. Municipal budgets can be revised in an orderly manner within normal budget preparation cycles to accommodate shifts in service delivery. New services can be added as tax revenue becomes available. Everyone will work with consistent, predictable expectations.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small, whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

Some people have argued that this approach is unduly conservative and punitive, especially for areas undertaking incorporation because they will be required to immediately provide services for which they have no funding. I am sympathetic, but after analyzing the consequences of trying to accommodate special situations, I realized that the conflicts created by more flexible approaches defeat their purpose. Practical considerations of implementing a taxing authority require a January 1 date certain, under which flexibility may be exercised to balance service delivery with revenue allocations. Municipalities have latitude to establish their levy date, tax payment schedule, and fiscal cycles within the limits of the statutes. They must prioritize the exercise of their powers and authorities to provide services consistent with their financial and human resources. Municipalities must make policy decisions about the appropriation of funds. Such planning decisions are considered discretionary and are immune from suit. Alaska Statute 09.65.070(d)(2) provides that neither a municipality nor its agents, officers, or employees are liable for failing to exercise a discretionary function, as upheld in the 1998 Alaska Supreme Court case *Adams v City of Tenakee Springs*. In other words, the sense of urgency is often exaggerated. Municipalities are not expected to immediately provide the host of services typically associated with government; nor is it likely that a city would be financially overwhelmed to extend essential life and safety services to an annexed area during the relatively short time it will not collect property taxes. Anticipated services and delivery timelines should be made clear to everyone early in the consideration to incorporate or annex territory.

The assessment date is the effective date for property tax liability. That Alaska statutes allow up to six months to mail the bills is a practical necessity for sufficient time to create an assessment roll, notify property owners, consider adjustments, conduct board of adjustment hearings, develop annual budgets, certify the roll, set an appropriate levy, and prepare the tax bills. The 1998 Supreme Court case *Kenai Peninsula Borough v Arndt* essentially established that property taxes accrue in full on the assessment date. A property's tax situs (including situs) becomes fixed for the full tax year on the date of its assessment. "Tax situs can be based on whether the property in question is taxed by another taxing government." The court recognized the general agreement that post-assessment changes in value, situs, and ownership of taxed property require no changes in tax for the corresponding year. The 1989 opinion of the state attorney general regarding municipal taxation of oil and gas production property in annexed territory concluded that an assessor can assess property and add it to the tax roll any time before its certification. This opinion has not stood the test of the court system and oversteps the legally prescribed January 1 assessment deadline.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning. This question could also result in a lengthy delay of an annexation due to court challenges of the LBC's tax jurisdiction decision.

It is commonly understood and accepted that property in annexations and incorporations effective after June 15 will not be taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. It is important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan money to newly incorporated cities similar to a loan made by the Kenai Peninsula Borough to a service area formed in October, 2000, for which the borough did not levy taxes until June, 2001. Another service area which will be formed in June 2003, if the voters approve, will also be eligible for an advance on its 2004 property tax revenue. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. Such payments would help bridge this revenue gap.

If SB 63 were adopted without including incorporation, a risk of multiple taxation arises when an area within a service area of an organized borough incorporates as a city before July 1. If the city levies taxes in the initial year following incorporation while the taxes on the detached area of the borough remain in effect under SB 63, the property owners in the new city will be taxed twice.

Clear guidelines for municipal taxation authority will encourage municipalities to be cautious about extending services beyond their boundaries, will promote orderly municipal growth as the need for services increases, and will reduce the stress and contention associated with boundary

changes. The Local Boundary Commission unanimously endorsed this legislation, as amended, at its meeting on April 7, 2003. Please support CSSB 63 so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you.  
Mary Griswold  
P.O. Box 1417  
Homer 99603

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 63  
(S) Publish Date: 2/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Municipal Annexations and Detachments BRU Community Assist & Eco. Dev. (405)  
Component Community & Business Development  
Sponsor Senate Community & Regional Affairs Component No. 2486  
Requester Senate Community & Regional Affairs

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004    | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2003) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)  
  
This legislation has no fiscal impacts to this division.

Prepared by: Gene Kane, Acting Director Phone 907-269-4578  
Division Community & Business Development Date/Time 2/25/03 4:57 PM  
Approved by: Edgar Blatchford, Commissioner Date 2/25/2003  
Agency Department of Community & Economic Development

February 5, 2004

SB 63 relating to municipal property taxation in annexed, detached, and newly incorporated areas is scheduled to be heard in HCRA on Thursday, February 12, 2004.

Please support SB 63 as amended to remove the transition language.

State statutes are unclear with respect to municipal authority to levy property taxes during an initial period following incorporation, annexation, or detachment. AS 29.45.110 establishes January 1 of the assessment year as the date properties shall be valued. AS 29.45.240(b) requires municipalities to determine the rate of levy before June 15 and to mail tax statements setting out the levy by July 1. The question is whether taxes accrue in full on January 1 when the valuation is set, or on the date the levy is determined. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

Clarifying by statute, in cases of incorporation, annexation, and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

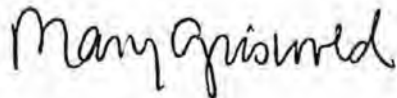
Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small, whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning.

Property affected by annexation or incorporation effective after June 15 is not taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. Municipalities are not expected to immediately provide the host of services typically associated with government; nor is it likely that a city would be financially overwhelmed to extend essential life and safety services to an annexed area during the relatively short time it will not collect property taxes. It is also important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. Organized boroughs may loan start-up money to newly incorporated cities. The state offers significant financial incentives, including a \$600,000 organizational grant, to areas of the unorganized borough willing to incorporate. These measures help bridge the revenue gap.

Clear guidelines for municipal taxation authority will promote orderly municipal growth and will reduce the stress and contention associated with boundary changes. Please support SB 63, as amended to remove transition language, so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you for your consideration.



Mary Griswold  
Box 1417  
Homer  
235-3725  
mgrt@xyz.net



# State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501  
Telephone: 907-269-4560 • Fax: 907-269-4539

May 5, 2003

The Honorable Thomas Wagoner  
Chairman, Senate Community and Regional Affairs Committee  
State Capitol, Room 427  
Juneau, Alaska 99801-1182

Re: CS FOR SENATE BILL NO. 63(STA)

Dear Senator Wagoner:

Thank you for your leadership in promoting CSSB 63(STA). The bill has the unqualified endorsement of the Local Boundary Commission.

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

It is critical that provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment. For example, the law must not be construed to prohibit a municipal government from extending essential services funded in whole or in part by property taxes to a newly annexed area until that area becomes subject to property taxes. Sections 2, 4, and 5 accomplish that objective.

Further, to maintain the existing substantial uniformity in State law regarding all decision-making actions of the Commission, it is appropriate to extend parallel language in Sections 2, 4, and 5 to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipal merger, consolidation, and dissolution). This is accomplished in Sections 1, 6, and 7 of CSSB 63(STA).

Again, thank you for your support and efforts to address these matters.

Very truly yours,

A handwritten signature in cursive script that reads "Darroll Hargraves".

Darroll Hargraves  
Chair



# State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501  
Telephone: 907-269-4560 • Fax: 907-269-4539

May 5, 2003

The Honorable Thomas Wagoner  
Chairman, Senate Community and Regional Affairs Committee  
State Capitol, Room 427  
Juneau, Alaska 99801-1182

Re: CS FOR SENATE BILL NO. 63(STA)

Dear Senator Wagoner:

Thank you for your leadership in promoting CSSB 63(STA). The bill has the unqualified endorsement of the Local Boundary Commission.

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

It is critical that provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment. For example, the law must not be construed to prohibit a municipal government from extending essential services funded in whole or in part by property taxes to a newly annexed area until that area becomes subject to property taxes. Sections 2, 4, and 5 accomplish that objective.

Further, to maintain the existing substantial uniformity in State law regarding all decision-making actions of the Commission, it is appropriate to extend parallel language in Sections 2, 4, and 5 to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipal merger, consolidation, and dissolution). This is accomplished in Sections 1, 6, and 7 of CSSB 63(STA).

Again, thank you for your support and efforts to address these matters.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Darroll Hargraves".

Darroll Hargraves  
Chair

# WORK ORDER REQUEST FORM

W.O. 23-LS1713

KEYWORDS: UNIFORM RULES

ASSIGNED: Cook

REQUEST FOR: Resolution

TAKEN BY: Duffy

SUBJECT: Suspend UN RLS: Title Change for SB 63

REQUESTED FOR: HC HCRA

BY: Mary Siroky

PHONE: 465-3882

DELIVER TO: Rep. Morgan; Attn.: Mary, Cap 408

### INSTRUCTIONS:

Tight title change - applying taxation to annexation detachment and incorporation to munis.

|   |  |
|---|--|
| <p>OBTAIN</p>   | <p>SPECIAL DRAFTING INSTRUCTIONS ATTACHED [ ]<br/>AUTHORIZED TO CONFER WITH</p> <p>_____</p> <p>_____</p> <p>RETURN _____</p> <p>_____ TO REQUESTOR</p> <p>APPROVED <input checked="" type="checkbox"/> DIRECTOR, LEGAL SERVICES</p> |
| <p>REVIEWED _____</p> <p>IN <u>02/10/04</u> DUE _____</p> <p>TYPED: DRAFT _____ DATE _____</p> <p>FINAL _____ DATE _____</p> <p>PROOFED _____ DELIVERED _____</p> | <p>SPECIAL INSTRUCTIONS to TYPING/PROOFING</p> <p>Request for DRAFT</p>  |

for appropriation, to provide for total appropriations equal to the amount of appropriations made in the previous calendar year for the previous fiscal year.

(c) An appropriation from the budget reserve fund may be made for any public purpose upon affirmative vote of three-fourths of the members of each house of the legislature.

(d) If an appropriation is made from the budget reserve fund, until the amount appropriated is repaid, the amount of money in the general fund available for appropriation at the end of each succeeding fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

## ARTICLE X. LOCAL GOVERNMENT.

**SECTION 1. PURPOSE AND CONSTRUCTION.** The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions. A liberal construction shall be given to the powers of local government units.

**SECTION 2. LOCAL GOVERNMENT POWERS.** All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

**SECTION 3. BOROUGHS.** The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be

organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

**SECTION 4. ASSEMBLY.** The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.

**SECTION 5. SERVICE AREAS.** Service areas to provide special services within an organized borough may be established, amended, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

**SECTION 6. UNORGANIZED BOROUGHES.** The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

**SECTION 7. CITIES.** Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

**SECTION 8. COUNCIL.** The governing body of a city shall be the council.

**SECTION 9. CHARTERS.** The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body

of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

**SECTION 10. EXTENDED HOME RULE.** The legislature may extend home rule to other boroughs and cities.

**SECTION 11. HOME RULE POWERS.** A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

**SECTION 12. BOUNDARIES.** A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

**SECTION 13. AGREEMENTS; TRANSFER OF POWERS.** Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

**SECTION 14. LOCAL GOVERNMENT AGENCY.** An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

**SECTION 15. SPECIAL SERVICE DISTRICTS.** Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

## ARTICLE XI. INITIATIVE, REFERENDUM, AND RECALL.

**SECTION 1. INITIATIVE AND REFERENDUM.** The people may propose and enact laws by the initiative, and approve or reject acts of the legislature by the referendum.

**SECTION 2. APPLICATION.** An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

**SECTION 3. PETITION.** After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

**SECTION 4. INITIATIVE ELECTION.** An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title

The Commission concurs with the conclusions and recommendations made by Representative Seaton and encourages amendment and passage of the bill as it relates to municipal property taxation in annexed, detached, and newly incorporated areas; i.e., the provisions in Section 3 and 5 of the bill.

### **HB 38 "An Act relating to mergers and consolidations of municipalities."**

This bill alters existing laws governing merger and consolidation of municipal governments (cities and boroughs). Its provisions are identical to those passed by the Legislature in 2002 as SCS CSHB 296(JUD). That bill was opposed by the DCED and LBC and vetoed by the Governor.

Section 1 of the bill imposes a requirement that signatures on a voter-initiated local option petition for merger or consolidation of municipal governments must be gathered within a 365-day period. Currently, there is no time limit on the gathering of signatures.

Section 2 adds a new subsection to AS 29.06.100 dealing with a local option petition for merger or consolidation of a borough and more than one city within that borough. It requires the petition to propose one of two results if it is approved by voters in the borough area outside the cities proposed to be merged or consolidated but is not approved by voters in each of the cities. The two options are: (1) the entire proposal is defeated, or (2) the proposal is partially approved and the borough is merged or consolidated with the cities in which the proposal has been approved.

Section 3 amends existing law. It requires that a majority of the votes in each of the municipalities proposed to be merged or consolidated through the local option process must favor merger or consolidation in order for it to be approved.

Votes on a proposal to merge or consolidate a borough and one or more cities within that borough must be tabulated as follows:

1. in the borough area outside of each city in that borough proposed to be merged or consolidated, and
2. in each of the cities in the borough proposed to be merged or consolidated.

If one or more municipalities outside of the borough are also included within the proposal, in each of those other municipalities a separate tabulation must be made for that area.

The bill provides that the proposal is defeated if it is not separately approved in the borough outside of the cities in that borough that are proposed to be merged or consolidated. If municipalities outside of the borough are included in the proposal, it is also rejected if not approved in those other municipalities.

If the proposal is not approved in one or more of the cities within the borough that are proposed to be merged or consolidated but is otherwise approved in each of the areas separately tabulated, the proposal is either entirely defeated or partially approved as specified in the petition under the new provision set out in Section 2.

Lastly, Section 3 states that the provisions in the amended law are intended to be consistent with the voting requirements for annexation specified in AS 29.06.040(c)(1).



## CHAPTER 3 POLICY ISSUES AND CONCERNS

**CSSB 63(STA) "An Act relating to transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations; and relating to municipal property taxation in annexed, detached, and newly incorporated areas."**

The fundamental purpose of CSSB 63(STA) is to eliminate long-standing ambiguities in existing law regarding when newly incorporated, annexed, and detached properties are subject to municipal property taxes. Sections 3 and 5 of the bill accomplish that fundamental purpose.

To ensure that the provisions of Sections 3 and 5 not be construed as limitations on the discretion of the Local Boundary Commission to determine appropriate transition measures for municipal incorporation, annexation, and detachment, Sections 2, 4, and 5 were added. In view of those additions and to maintain existing substantial uniformity in State law regarding all decision-making actions of the Commission, language paralleling the provisions of Sections 2, 4, and 5 were added to other matters under the jurisdiction of the Commission (i.e., city reclassifications, municipi-

pal merger, consolidation, and dissolution). Those additions were set out in Sections 1, 6, and 7 of the bill.

On May 5, 2003, CSSB 63(STA) passed the State Senate by a unanimous vote of all members present (18 voted in favor of the bill, one Senator was excused and one Senator was absent). The Local Boundary Commission supported the bill, which is currently before the House of Representatives for review.

In December 2003, Representative Paul Seaton requested that the Commission support the bill without the language relating to transition provisions. He observed that the Commission already has the power to amend petitions and impose transition requirements for boundary changes. He stated that while codifying those powers in statute would create additional clarity, removing the provisions from the bill would not diminish the Commission's ability to effect reasonable boundary changes. He is of the opinion that the transitional language in the bill may jeopardize its passage. Therefore, he requested that the Commission support a change in title of the bill and removal of the language referring to transition provisions and powers of the Commission. He concluded that this compromise could enable passage of a final resolution of the municipal property tax issue.

Kott, Samuels, Morgan, Kooker - Csm

8:09 -

adopted CS for CSSB (3 COA) -

Rep Sealm -

KT Why I intro this bill -

SA Worked w/ Spren - affects his district.  
Spren supports CS

ST = Cleans up w/ annex, Union's service area -  
happen smoothly = ~~at~~

local boundary process is the way decisions are  
made = currently <sup>at</sup> June 15th means ~~start~~  
start 1/1

SM = <sup>wait</sup> 6-8 months would that make more sense?

ST = Since there's diff jurisdictions this makes more  
sense.

SM What if that's not on calendar budget year -

ST Believe munis on calendar yr. No muni <sup>have</sup> ~~to~~ ~~meet~~  
raised that concern:

Mary Szwald - Requests support.  
Read her letter of request

# Close public testimony -

Reschedule for next Thursday.

etc needed

Disrupts + supports are always in the  
lookout for ways to enhance education  
EPD will not give up on the piece to  
enhance education

LBC = finalized report based on discussion

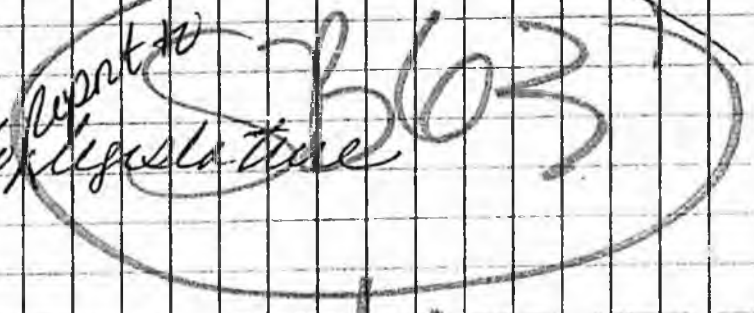
Chair wants Lanyard's sentiments into the  
report. whole commission agreed by not  
downen long.

EPD to send comments to Dan.

LBC draft to legislative

Draft

Chptr 3



SB 603 = letter Dec 30 Senator supporting w/  
amendment in order to win favorable hearing  
in the H.

SB 603 provides certainty when taxes take place

CSSB 603 endorsed by LBC

State amendment =

Lanyard dealing w/ transition to receive  
by the H as such LBC to much price. Senator's  
amendment says that it should  
impact activities of LBC & Dan agrees w/  
Lanyard's position.

Bob = crucial w/ Dan's recommendation

SB

132



**COMMITTEE:** House  
Community and Regional  
Affairs Standing Committee

**SUBJECT:**  
SB 132-MINTO FLATS GAME REFUGE & TOWNSITE



**DATE:** May 5, 2004

# PLEASE SIGN IN

**PLEASE PRINT:  
NAME & TITLE**

**ADDRESS**

**PHONE**

**REPRESENTING**  
(No acronyms unless for a state agency,  
please)

**DO YOU  
WANT TO  
TESTIFY ?**

|                 |  |  |  |  |
|-----------------|--|--|--|--|
|                 |  |  |  |  |
| E-mail address: |  |  |  |  |
|                 |  |  |  |  |
| E-mail address: |  |  |  |  |
|                 |  |  |  |  |
| E-mail address: |  |  |  |  |
|                 |  |  |  |  |
| E-mail address: |  |  |  |  |
|                 |  |  |  |  |
| E-mail address: |  |  |  |  |
|                 |  |  |  |  |
|                 |  |  |  |  |

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB132CS(CRA)-DNR-LSME  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/15/2004 Dept. Affected: Natural Resources  
 Title: Minto State Game Refuge and Townsite RDU: Resource Development  
 Component: Land Sales and Municipal Entitlement  
 Sponsor: Sen. Lincoln  
 Requester: Sen RES Component No.: 2460

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                                     |            |            |            |            |            |            |
|-------------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES (GF 1004)</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|-------------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This legislation directs DNR to convey a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director  
Mining, Land and Water  
 Approved by: Thomas Irwin, Commissioner  
 Agency: Natural Resources

Phone: 269-8600  
 Date/Time: 4/15/04  
 Date: 4/15/04

ALASKA STATE LEGISLATURE  
Senator Georgianna Lincoln

State Capitol  
Juneau, Alaska 99801-1182

(907) 465-3732  
Toll Free: 1-888-461-3732  
Fax (907) 465-2652

E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us

Standing Committees:  
Resources  
Transportation  
Community & Regional Affairs

Joint Committee:  
Legislative Council

Budget Subcommittees:  
Administration  
Transportation

DISTRICT C

Alatna  
Allakaket  
Aniak  
Angoon  
Anvik  
Arctic Village  
Beaver  
Beluga  
Bettles  
Big Delta  
Birch Creek  
Boundary  
Cape Pole  
Central  
Chalkyitsik  
Chandalar Lake  
Chenega Bay  
Chicken  
Chisana  
Chistochina  
Chitina  
Chuathbaluk  
Circle  
Coffman Cove  
Cordova  
Cube Cove  
Coldfoot  
Copper Center  
Craig  
Crooked Creek  
Delta Junction  
Deltana  
Dot Lake  
Dry Creek  
Eagle  
Eagle Village  
Edna Bay  
Ellamar  
Ernestine  
Excursion Inlet  
Eureka  
Evansville  
Eyak  
Flat  
Fort Greely  
Fort Yukon  
Fortuna Ledge  
Foster Bay  
Gakona  
Galena  
Gravling  
Gullama  
Gustavus  
Haines  
Healy Lake  
Hogatza  
Hobart Bay  
Holy Cross  
Hoonah  
Hughes  
Huslia  
Hydaburg

MEMORANDUM

TO: Representative Carl Morgan, Chair  
House Community and Regional Affairs Committee

FROM: Senator Georgianna Lincoln *georg*

RE: Committee Hearing for CS SB132 (RES)

DATE: May 4, 2004

I respectfully request you schedule CS SB132 (RES), "An Act removing the Old Minto townsite from the Minto Flats State Game Refuge," as soon as possible. This bill simply removes the Old Minto townsite from the Minto Flats State Game Refuge and authorizes the Department of Natural Resources to convey 32.4 acres of land to the Native Village of Minto.

Attached please find my sponsor statement and letters of support. Please contact my staff, Mark Stopha, extension 2847, with any questions on this legislation.

Hyder  
Kake  
Kaltag  
Kasaan  
Katalla  
Kenicott  
Kenny Lake  
Klawock  
Klukwan  
Koyukuk  
Labouche Bay  
Lake Minchumina  
Line Village  
Livengood  
Long Island  
Mankomen Lake  
Manley Hot Springs  
Marshall  
McCarthy  
McGrath  
Medfra  
Metlakatla  
Mentasta  
Minto  
Nabesna  
Naukati Bay  
Nenana  
Nikolai  
Northway  
Nulato  
Ophir  
Point Baker  
Polk Inlet  
Port Alice  
Port Protection  
Rampart  
Red Devil  
Ruby  
Russian Mission  
Shageluk  
Skagway  
Slana  
Sleetmute  
Stevens Village  
Stony River  
Strelua  
Takotna  
Tanacross  
Tanana  
Tatitlek  
Tazlina  
Telida  
Tenakee Springs  
Telford Junction  
Tok  
Tonsina  
Tyonek  
Utopia Creek  
Venetie  
View Cove  
Waterfall  
Whale Pass  
Wiseman  
Yakutat



# Senator Georgianna Lincoln

---

Alaska State Legislature, District C  
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652  
E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us

## Sponsor Statement for Senate Bill 132

**“An Act removing the Old Minto town site from the Minto Flats State Game Refuge and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Native Village of Minto.**

Senate Bill 132 will allow for the transfer of approximately 32 acres of land located at the Old Minto village site from the Minto Flats State Game Refuge to the Native Village of Minto. Currently, the Interior Athabascan Cultural Heritage Education Institute (ACHEI), operated by the Native Village of Minto, holds a “Public and Charitable Lease” for a Youth Encampment on the site until 2052. The Native Village of Minto would become the landlord and administrator of the ACHEI lease.

Old Minto village is located on the banks of the Tanana River, about 50 miles northwest of Fairbanks. Old Minto village was the home of the Minto Band of Athabascan Indians from the time of its settlement in 1915 to 1969, when the people relocated to the present village site of Minto due to flooding and erosion. The residents of Minto never intended to give up their ancestral lands at Old Minto when they were forced to move. Despite relocation, the people of Minto continue to maintain a strong spiritual attachment to Old Minto. Elders and their descendents go there to camp, and keep up graves of their ancestors. The cabins, church, community hall and store building still exist today.



*Dedicated to preserving the Athabascan way of life.*

**CULTURAL HERITAGE & EDUCATION INSTITUTE**  
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910  
 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosquiltonet.com

4-1-04

Senator Georgianna Lincoln  
 Senator Ralph Seekins  
 Senator Gary Wilken  
 Senator Therrialt

Representative Al Kookesh  
 Representative Carl Morgan  
 Representative Hugh "Bud" Fate  
 Representative David Guttenberg  
 Representative James A. Holm  
 Representative Jim Whitaker  
 Representative John B. Coghill, Jr.

With Respect to Senators and Representatives,

The Cultural Heritage and Education Institute would like to strongly support and recommend your affirmative vote of bill 132. This bill allows for the transfer of approximately 32 surveyed acres of land, the Old Minto Village site, section 28, township 1 north, range 8 west and Fairbanks Meridian, from the Minto Flats Wildlife Refuge to The Native Village of Minto.

Founded in the year 1915 by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969, due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans.

The Cultural Heritage and Education Institute has held many important culture, heritage, language and recovery camps for the people of Minto as well as for others in the spirit of sharing Athabascan culture, wisdom, and traditional native ways of knowing. The Minto Family Recovery Camp has helped hundreds of people since 1989. It is the place where the stories are told, and where they can be heard in the setting most conducive for youth to learn. The people of Minto continually visit this special place, by boat, dog sled or snow machine. Whether it

*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishtail (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tonidra Gheltsilna)." - Chief Peter John*



*Dedicated to preserving the Athabascan way of life.*

**CULTURAL HERITAGE & EDUCATION INSTITUTE**  
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910  
 website-<http://www.ankn.uaf.edu/chei> Email-[Chei@mosqultonet.com](mailto:Chei@mosqultonet.com)

is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*

This land has always belonged to these peoples. It is our belief that it should remain with them. Thank you for your attention to this important matter. Feel free to contact us with any questions.

*Robert Charlie*  
 Robert Charlie  
 Executive Director  
 Cultural Heritage and Education Institute



*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishfall (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tonidra Gheltsilna)." – Chief Peter John*

# Tanana Chiefs Conference

Chief Peter John Tribal Building

122 First Avenue, Suite 600

Fairbanks, Alaska 99701-4897

(907) 452-8251 Fax: (907) 459-3850

April 7, 2004

## SUBREGIONS

### KUSKOKWIM

McGrath  
Medfra  
Nikolai  
Tukotna  
Tetlao

Senator Georgianna Lincoln  
Senator Ralph Seekins  
Senator Gary Wilken  
Senator Therrialt

Representative Al Kookesh  
Representative Carl Morgan  
Representative Hugh "Bud" Fate  
Representative David Guttenberg  
Representative James A. Holm  
Representative Jim Whitaker  
Representative John B. Coghill, Jr.

### LOWER YUKON

Anvik  
Grayling  
Holy Cross  
Snageluk

### UPPER TANANA

Dot Lake  
Eagle  
Heavy Lake  
Northway  
Tanacross  
Tatlin  
Tok

Honorable Senators and Representatives:

I am writing today to express support for SB 132 on behalf of Tanana Chiefs Conference (TCC) and the Old Minto Family Recovery Camp. TCC operates the Old Minto Family Recovery Camp, an alcohol and drug rehabilitation facility, on the land that would be transferred by SB 132. As an affected entity, TCC supports and recommends passage of SB 132, which would transfer of approximately 32 acres of land at the Old Minto Village site from the Minto Flats Wildlife Refuge to the Minto Village Council.

The Old Minto Family Recovery Camp has held many substance abuse treatment sessions at the Old Minto site building resiliency for patients in recovery by sharing Athabaskan culture, wisdom, and traditional Native ways of knowing. In this way the Old Minto Family Recovery Camp has helped hundreds of people since its opening 1989. It is a place where stories are told, and where they can be heard in a setting most conducive for patients to become sober.

The people of (New) Minto continue to visit this special place, by boat, dog sled, and snow machine throughout the year, checking on staff and patients to support them on their journey to sobriety. The people of Minto also support our yearly Sobriety Potlatch with hundreds of people in attendance. The sober Elders of Minto share their stories of sobriety with the patients during a 4-day period as they show the patients how to prepare traditional foods. These lessons are invaluable to the patients, helping them to recover who they are as sober Alaska Native people.

The land at Old Minto has always belonged to the Minto people. And it is our belief that it should remain with them. Cultural Heritage Education Institute's letter of support on SB 132 details the history of Old Minto as follows:

"Founded in the year 1915, by Chief Charlie, Old Minto is a Historic and Traditional site where Athabaskan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for

### YUKON FLATS

Arctic Village  
Beaver  
Birch Creek  
Canyon Village  
Chalkyillak  
Circle  
Fort Yukon  
Venetie

### YUKON KORYUKUK

Goena  
Huslia  
Kaitag  
Koryukuk  
Nulato  
Ruby

### YUKON TANANA

Alatna  
Atakake  
Evansville  
Fairbanks  
Hughes  
Lake  
Minchumina  
Manley Hot  
Springs  
Minto  
Nenana  
Rampart  
Stevens Village  
Tanana

healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans... Whether it is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*"

It cannot be said any better than this so. Please include Tanana Chiefs Conference and the Old Minto Family Recovery Camp as supporters of the land being returned to the Minto people.

Thank you for your attention to this important matter. Feel free to contact me with any questions.

Sincerely,

TANANA CHIEFS CONFERENCE



Harold "Buddy" Brown, Esq.  
President and Chairman

cc: Old Minto Recovery Camp

## *Old Minto Village Site*

Minto Tribal Council Resolution # 03 - 06

Whereas, The land is like our parent, providing us with nourishment and the foundation of our culture, and

Whereas, The Minto people have lived on the land of the Minto Flats continuously for centuries, relocating from the Old Village Site to the present location due to flooding conditions at the Old Site, and

Whereas, Even though the people had to relocate to a new village site, the people of Minto continuously travel to and stay at the Old Village Site to renew the spiritual connection to the site, and participate in cultural activities, and

Whereas, The Old Village Site is still the home of the people who were born there, the connection has never left them, and if the land were granted to the people of Minto this connection would be secure for future generations, and

Whereas, The Minto Village Council is the governing body of the Native Village of Minto, representing all the Minto people, and as such is the most appropriate entity to receive the land and to care for it for generations to come, and

Whereas, The Minto Village Council is a responsible land manager and has the ability to protect the land and its resources, including the important services provided by the Old Minto Recovery Camp that is so valuable for alcohol treatment, as well as the Cultural Heritage and Education Institute.

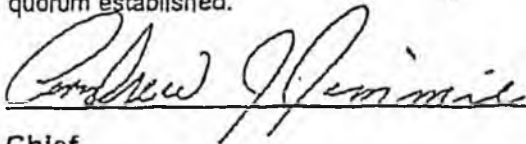
Whereas, It is in the best interest of the State of Alaska to protect the rich cultural heritage of Alaska's indigenous people by transferring the Old Minto

Village Site land, and the responsibility of caring for its cultural significance, to the Native Village of Minto.

Now Therefore Be It Resolved that the Minto people support the transfer of approximately 32 acres of land at the Old Minto Village Site from the Minto Flats Wildlife Refuge to the Native Village of Minto through the most expedient way available to the State to make such transfer.

#### Certification

This resolution was adopted by the Minto Village Council by a vote of 5 in favor, 0 opposed, and \_\_\_ abstaining, at a meeting of the Tribal Council where notice was posted and a quorum established.

  
\_\_\_\_\_

Chief

  
\_\_\_\_\_

Secretary/Treasurer

ALASKA STATE LEGISLATURE  
Senator Georgianna Lincoln

State Capitol  
Juneau, Alaska 99801-1182

(907) 465-3732  
Toll Free: 1-888-461-3732  
Fax (907) 465-2652

E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us



Standing Committees:  
Resources  
Transportation  
Community & Regional Affairs

Joint Committee:  
Legislative Council

Budget Subcommittees:  
Administration  
Transportation

DISTRICT C

Alatna  
Allakaket  
Aniak  
Angoon  
Anvik  
Arctic Village  
Beaver  
Beluga  
Bettles  
Big Delta  
Birch Creek  
Boundary  
Cape Pole  
Central  
Chalkyitsik  
Chandalar Lake  
Chenega Bay  
Chicken  
Chisana  
Chistochina  
Chitina  
Chuathbaluk  
Circle  
Coffman Cove  
Cordova  
Cube Cove  
Coldfoot  
Copper Center  
Craig  
Crooked Creek  
Delta Junction  
Deltana  
Dot Lake  
Dry Creek  
Eagle  
Eagle Village  
Edna Bay  
Ellamar  
Ernestine  
Excursion Inlet  
Eureka  
Evansville  
Eyak  
Flat  
Fort Greely  
Fort Yukon  
Fortuna Ledge  
Funter Bay  
Gakona  
Galena  
Grayling  
Gulkana  
Gustavus  
Haines  
Healy Lake  
Hogatza  
Hobart Bay  
Holy Cross  
Hoonah  
Hughes  
Huslia  
Hydaburg

MEMORANDUM

TO: Representative Carl Morgan, Chair  
House Community and Regional Affairs Committee

FROM: Senator Georgianna Lincoln *georg*

RE: Committee Hearing for CS SB132 (RES)

DATE: May 4, 2004

I respectfully request you schedule CS SB132 (RES), "An Act removing the Old Minto townsite from the Minto Flats State Game Refuge," as soon as possible. This bill simply removes the Old Minto townsite from the Minto Flats State Game Refuge and authorizes the Department of Natural Resources to convey 32.4 acres of land to the Native Village of Minto.

Attached please find my sponsor statement and letters of support. Please contact my staff, Mark Stopha, extension 2847, with any questions on this legislation.

Hyder  
Kake  
Kaltag  
Kasaan  
Katalla  
Kennicott  
Kenny Lake  
Klawock  
Klukwan  
Koyukuk  
Labouchere Bay  
Lake Minchumina  
Lime Village  
Livengood  
Long Island  
Mankomen Lake  
Manley Hot Springs  
Marshall  
McCarthy  
McGrath  
Medfra  
Metlakatla  
Mentasta  
Minto  
Nabesna  
Naukatu Bay  
Nenana  
Nikolai  
Northway  
Nulato  
Oplir  
Point Baker  
Polk Inlet  
Port Alice  
Port Protection  
Rampart  
Red Devil  
Ruby  
Russian Mission  
Shageluk  
Skagway  
Slana  
Sleetmute  
Stevens Village  
Stony River  
Strelna  
Takotna  
Tanacross  
Tanana  
Tatitlek  
Tazlina  
Telida  
Tenakee Springs  
Tetlin Junction  
Tok  
Tonsina  
Tyonek  
Utopia Creek  
Venetie  
View Cove  
Waterfall  
Whale Pass  
Wiseman  
Yakutat



# Senator Georgianna Lincoln

---

Alaska State Legislature, District C  
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652  
E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us

## Sponsor Statement for Senate Bill 132

**“An Act removing the Old Minto town site from the Minto Flats State Game Refuge and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Native Village of Minto.**

Senate Bill 132 will allow for the transfer of approximately 32 acres of land located at the Old Minto village site from the Minto Flats State Game Refuge to the Native Village of Minto. Currently, the Interior Athabascan Cultural Heritage Education Institute (ACHEI), operated by the Native Village of Minto, holds a “Public and Charitable Lease” for a Youth Encampment on the site until 2052. The Native Village of Minto would become the landlord and administrator of the ACHEI lease.

Old Minto village is located on the banks of the Tanana River, about 50 miles northwest of Fairbanks. Old Minto village was the home of the Minto Band of Athabascan Indians from the time of its settlement in 1915 to 1969, when the people relocated to the present village site of Minto due to flooding and erosion. The residents of Minto never intended to give up their ancestral lands at Old Minto when they were forced to move. Despite relocation, the people of Minto continue to maintain a strong spiritual attachment to Old Minto. Elders and their descendents go there to camp, and keep up graves of their ancestors. The cabins, church, community hall and store building still exist today.



*Dedicated to preserving the Athabascan way of life.*

**CULTURAL HERITAGE & EDUCATION INSTITUTE**  
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910  
 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosquiltonet.com

4-1-04

Senator Georgianna Lincoln  
 Senator Ralph Seekins  
 Senator Gary Wilken  
 Senator Therrialt

Representative Al Kookesh  
 Representative Carl Morgan  
 Representative Hugh "Bud" Fate  
 Representative David Guttenberg  
 Representative James A. Holm  
 Representative Jim Whitaker  
 Representative John B. Coghill, Jr.

With Respect to Senators and Representatives,

The Cultural Heritage and Education Institute would like to strongly support and recommend your affirmative vote of bill 132. This bill allows for the transfer of approximately 32 surveyed acres of land, the Old Minto Village site, section 28, township 1 north, range 8 west and Fairbanks Meridian, from the Minto Flats Wildlife Refuge to The Native Village of Minto.

Founded in the year 1915 by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans.

The Cultural Heritage and Education Institute has held many important culture, heritage, language and recovery camps for the people of Minto as well as for others in the spirit of sharing Athabascan culture, wisdom, and traditional native ways of knowing. The Minto Family Recovery Camp has helped hundreds of people since 1989. It is the place where the stories are told, and where they can be heard in the setting most conducive for youth to learn. The people of Minto continually visit this special place, by boat, dog sled or snow machine. Whether it

*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishtail (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tonidra Gheltsilna)." - Chief Peter John*



*Dedicated to preserving the Athabascan way of life.*

**CULTURAL HERITAGE & EDUCATION INSTITUTE**  
P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910  
website-<http://www.ankn.uaf.edu/chel> Email-[Chei@mosquiltonet.com](mailto:Chei@mosquiltonet.com)

is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*

This land has always belonged to these peoples. It is our belief that it should remain with them. Thank you for your attention to this important matter. Feel free to contact us with any questions.

*Robert Charlie*  
Robert Charlie  
Executive Director  
Cultural Heritage and Education Institute



*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishtail (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tonidra Gheltsilna)." – Chief Peter John*

# Tanana Chiefs Conference

Chief Peter John Tribal Building

122 First Avenue, Suite 600

Fairbanks, Alaska 99701-4897

(907) 452-8251 Fax: (907) 459-3850

April 7, 2004

## SUBREGIONS

### KUSKOKWIM

McGroth  
Meda  
Nikolai  
Tokoma  
Telida

Senator Georgianna Lincoln  
Senator Ralph Seekins  
Senator Gary Wilken  
Senator Therrialt

Representative Al Kookesh  
Representative Carl Morgan  
Representative Hugh "Bud" Fate  
Representative David Guttenberg  
Representative James A. Holm  
Representative Jim Whitaker  
Representative John B. Coghill, Jr.

### LOWER YUKON

Anvik  
Grayling  
Holy Cross  
Snageluk

### UPPER TANANA

Dot Lake  
Eagle  
Healy Lake  
Northway  
Tanacross  
Tetlin  
Tok

Honorable Senators and Representatives:

I am writing today to express support for SB 132 on behalf of Tanana Chiefs Conference (TCC) and the Old Minto Family Recovery Camp. TCC operates the Old Minto Family Recovery Camp, an alcohol and drug rehabilitation facility, on the land that would be transferred by SB 132. As an affected entity, TCC supports and recommends passage of SB 132, which would transfer of approximately 32 acres of land at the Old Minto Village site from the Minto Flats Wildlife Refuge to the Minto Village Council.

### YUKON FLATS

Arctic Village  
Beaver  
Birch Creek  
Canyon Village  
Chalkylik  
Circle  
Fort Yukon  
Venetia

The Old Minto Family Recovery Camp has held many substance abuse treatment sessions at the Old Minto site building resiliency for patients in recovery by sharing Athabascan culture, wisdom, and traditional Native ways of knowing. In this way the Old Minto Family Recovery Camp has helped hundreds of people since its opening 1989. It is a place where stories are told, and where they can be heard in a setting most conducive for patients to become sober.

### YUKON

#### KOYUKUK

Galena  
Huslia  
Kaitag  
Koyukuk  
Nulato  
Ruby

The people of (New) Minto continue to visit this special place, by boat, dog sled, and snow machine throughout the year, checking on staff and patients to support them on their journey to sobriety. The people of Minto also support our yearly Sobriety Potlatch with hundreds of people in attendance. The sober Elders of Minto share their stories of sobriety with the patients during a 4-day period as they show the patients how to prepare traditional foods. These lessons are invaluable to the patients, helping them to recover who they are as sober Alaska Native people.

### YUKON TANANA

Alaina  
Alakake  
Evansville  
Fairbanks  
Hughes  
Lake  
Minchumina  
Monley Hot  
Spirings  
Minto  
Nerana  
Rampart  
Stevens Village  
Tanana

The land at Old Minto has always belonged to the Minto people. And it is our belief that it should remain with them. Cultural Heritage Education Institute's letter of support on SB 132 details the history of Old Minto as follows:

"Founded in the year 1915, by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for

healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans... Whether it is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*"

It cannot be said any better than this so. Please include Tanana Chiefs Conference and the Old Minto Family Recovery Camp as supporters of the land being returned to the Minto people.

Thank you for your attention to this important matter. Feel free to contact me with any questions.

Sincerely,

TANANA CHIEFS CONFERENCE

A handwritten signature in black ink, appearing to read "Harold Brown", with a long horizontal flourish extending to the right.

Harold "Buddy" Brown, Esq.  
President and Chairman

cc: Old Minto Recovery Camp

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 132(CRA)  
 (S) Publish Date: 4/15/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title Minto State Game Refuge and Townsi RDU Resource Development  
 Component Land Sales and Municipal Entitlement  
 Sponsor Sen. Lincoln  
 Requester Sen CRA Component No. 2460

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 |            |            |            |            |            |            |
| Contractual            | 0.0        |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                                     |            |            |            |            |            |            |
|-------------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES (GF 1004)</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
|-------------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This legislation directs DNR to sell a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director  
Mining, Land and Water  
 Approved by: Thomas Irwin, Commissioner  
 Agency Natural Resources

Phone 269-8600  
 Date/Time 4/14/04  
 Date \_\_\_\_\_

# ALASKA STATE HOUSE OF REPRESENTATIVES

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Pete Kott  
Representative Sharon Cissna  
Representative Albert Kookesh



Alaska State Capital, Room 408  
Juneau, AK 99801-1182  
Telephone: (907) 465-3882  
Fax: (907) 465-4527  
representative\_carl\_morgan@legis.state.ak.us

## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Representative Carl Morgan, Chair

### AGENDA

State Capital 124

May 6, 2004

8:00am to 10:00am

9:00 10:00

- Call to Order
- SB 260 Municipal Planning Organizations/Areas
- SB 387 Commercial Fishing Loans for Quota Shares
- Next meeting Friday at 8:00am
- Adjourn

SB

155

Wolf Trend Information  
Alaska Wildlife Conservation Association  
January 2003

Sources: ADF&G Harvest Surveys, ADF&G Annual Performance Reports, Federal Aid in Wildlife Restoration Reports, BOG minutes, BOG Proposal Booklet(s).

Trends Graph: Over 10 years of information on wolf population and human harvest with the population objective used by the BOG. Since the BOG has set a fall and a spring population objective, both are shown.

Analysis: Recent population estimates are from wolf survey flights during November 1999 and March 2000. Reports from hunters, trappers, guides, incidental sightings by ADF&G personnel and track survey data were also used. The fall 1999 population estimate was 500 – 550 wolves in 55 – 60 packs. The "preliminary spring 2000 estimate was 300 – 350 wolves. The harvest was 269 wolves. Noted by ADF&G was, "The spring 2000 estimate of 300 – 350 wolves in Unit 13 exceeds the spring population objective for Unit 13 set by the BOG by 135 wolves. We expect over 600 wolves for the fall 2003 population."

The sustained harvest level indicates a higher than "estimated" wolf population.

Although the BOG approved a wolf control implementation plan that was to begin in 2000 – 2001, no action has been taken to date. The number of prey animals taken by the wolves in excess of the population objective is critical in the decline of moose and caribou populations. For example, if the 2000 human moose harvest of 721 moose were "re-assigned" to support this population of wolves, it would only result in 5 moose per wolf. Normally wolves eat an average of 12 moose per wolf each year. Since we anticipate that the moose population will decline by another 1000 or more moose each year, the number killed by the number of wolves above the population objective is very significant. The ADF&G notes that the BOG wolf control implementation plan for Unit 13A, B, and E allows snowmachine hunting of wolves in the control area beginning in 2000 – 2001. There is no estimate of additional harvest from snowmachiners.

There is no action or recommendation by the ADF&G to reduce wolves in Unit 13. Without their help, any reduction is going to have to come from additional harvest by hunters and trappers.

Questions:

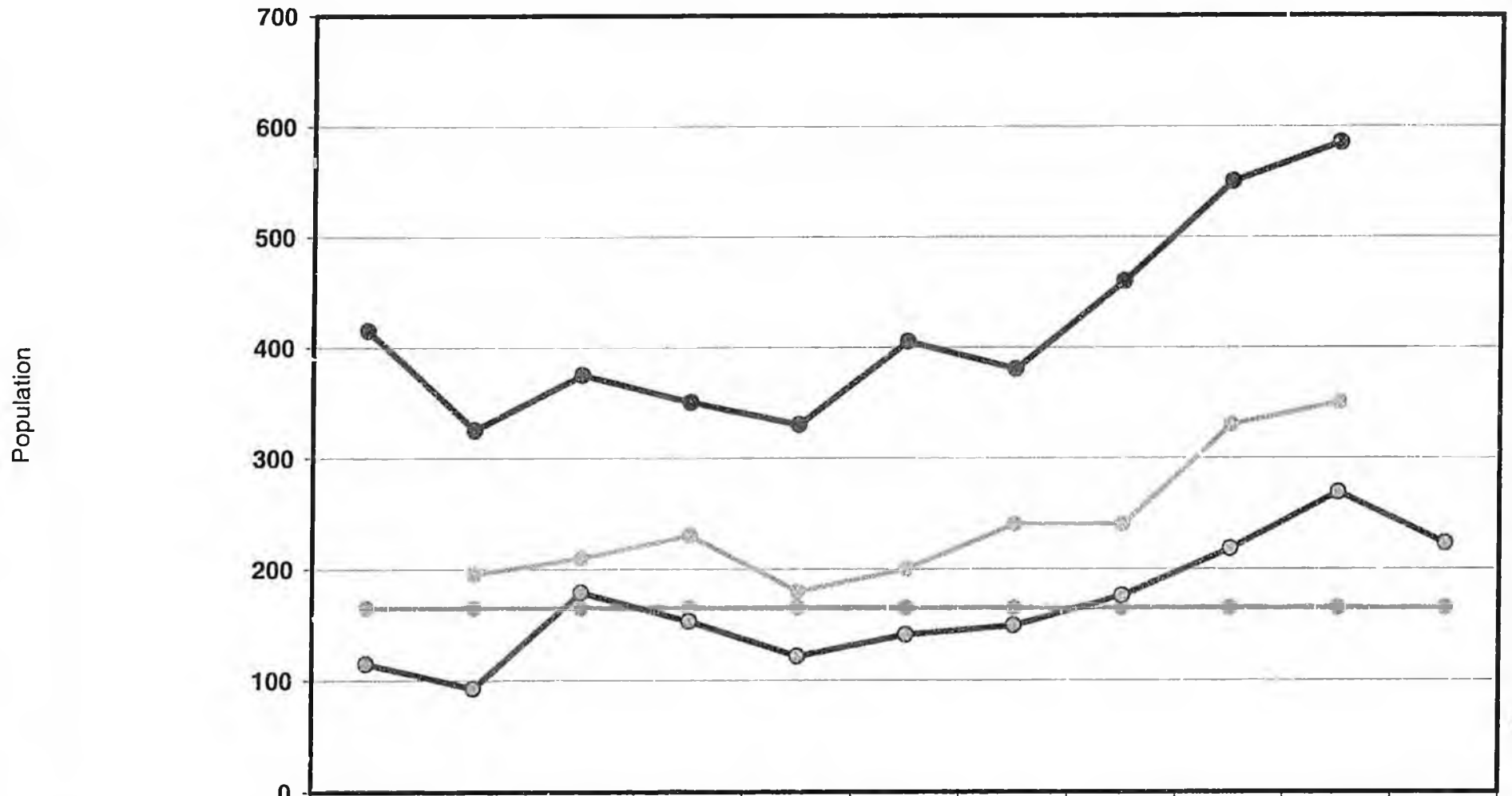
Why doesn't the ADF&G explain to the Alaskan public what the effects of their wildlife and predator management in Unit 13 will be?

How "out of balance" do these populations have to get before action is recommended by the wildlife managers?

How do we get to the wolf population objective?

There has been no special "planning" effort in Unit 13. No options for balancing the predator and prey populations have been identified or presented to the Board or the public. There always seems to be funding for special "planning teams" in rural units with declining moose populations, McGrath, Koyukuk, Kuskokwim, but not for units used primarily by urban Alaskans. Why? The Department has not explained the impact predators are having on moose in GMU 13. It would seem GMU 13 is the perfect opportunity for the Department to "educate" the public on the effects of passive game management. Why don't they?

### GMU 13 Wolf Population Trends AWCA 103



|                    | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 |
|--------------------|------|------|------|------|------|------|------|------|------|------|------|
| Spring Pop.        |      | 195  | 210  | 230  | 180  | 200  | 240  | 240  | 330  | 350  |      |
| Sp. Pop. Objective | 165  | 165  | 165  | 165  | 165  | 165  | 165  | 165  | 165  | 165  | 165  |
| Fall Pop.          | 415  | 325  | 375  | 350  | 330  | 405  | 380  | 460  | 550  | 585  |      |
| Harvest            | 115  | 93   | 179  | 153  | 122  | 141  | 149  | 176  | 218  | 269  | 223  |

Moose Calf Mortality  
Alaska Wildlife Conservation Association  
January 2003

Sources: ADF&G Harvest Surveys, ADF&G Annual Performance Reports, Federal Aid in Wildlife Restoration, BOG minutes, BOG Proposal Booklet(s).

Trends Graph: Using 12 years of information on the moose population and human harvest, and calf production formula to show "calves born" each year.

Analysis: In order to understand the issues related to the declining moose population in GMU 13, we have prepared this "example" for moose calf production, survival, mortality over time and the relationship between "production" and human harvest. Most basically said, 96% of all of the moose calves born in GMU 13 since 1990 have been food for the natural predators, wolves, bears, coyotes, etc.

The Alaska Wildlife Conservation Association has been analyzing the ADF&G moose information from GMU 13 since the early 1980's. The GMU 13 declining moose population has been a classic example of mismanagement, or non-management for many years. The "policy" of standing by and observing the moose population crashing has been called "management" for many of our interior game management units.

In cooperation with the Alaska Moose Federation this analysis of calf production has been updated and projected through Fall 2003.

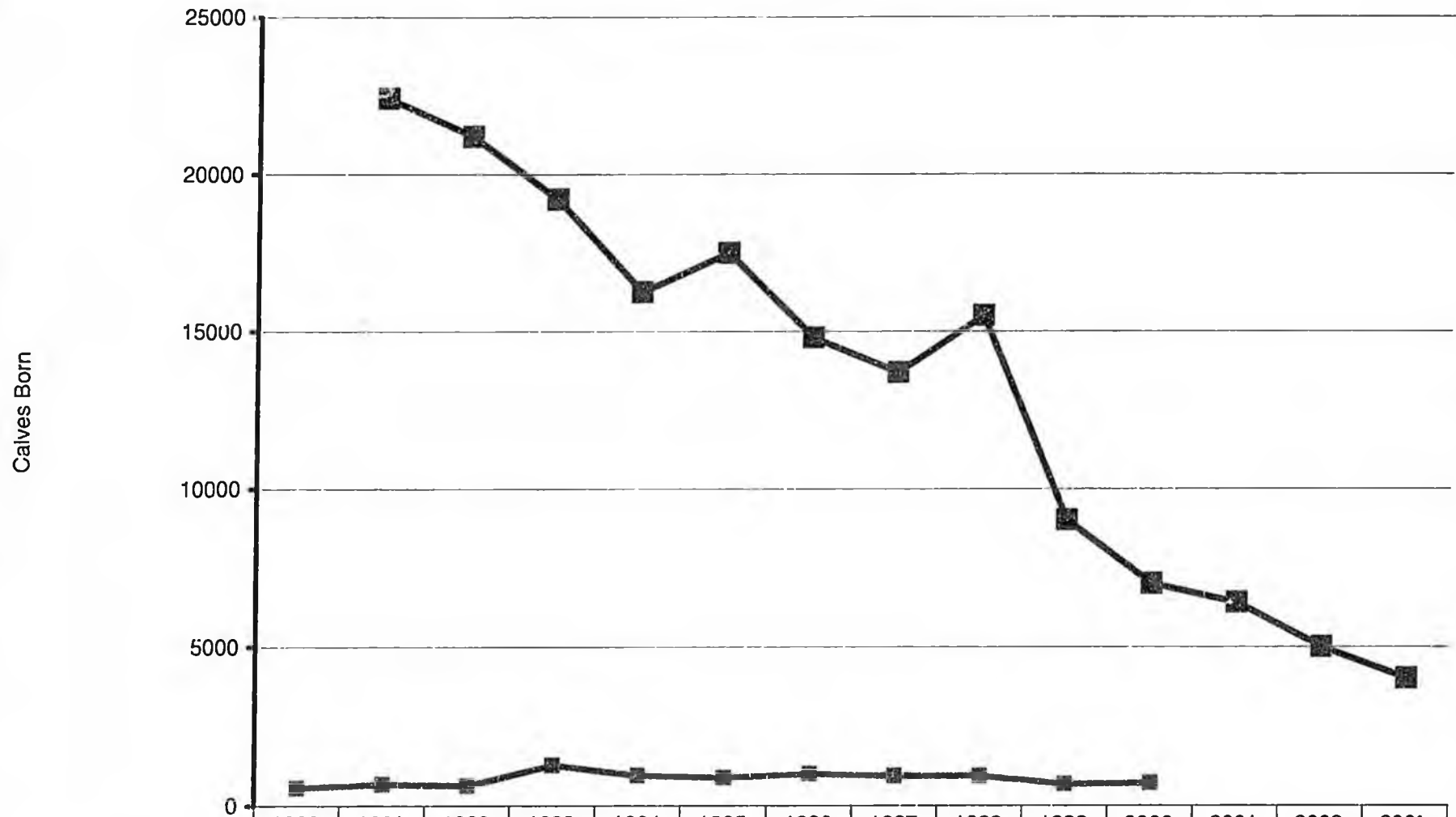
The moose population decline from 1986 through 2003 shows the net decline in population. The gross loss of moose is an even more dramatic indicator of the ecological waste of a valuable resource. The gross loss calculation includes the number of calves born into the herd. Over this time, the net loss in moose Fall population has averaged about 1,500 per year. Over the same period, the gross loss has averaged well over 12,000 moose per year. We estimate that 172,000 moose calves have been born in GMU 13 since 1990. The Fall moose population for the unit has declined to a projected 7,000 in fall 2003. The Fall population has declined by 75%, from 27,500 to 7000.

Although 190,000 moose have died in GMU 13 since 1988 only 12,000 or 4% were harvested by hunters. Hunters don't kill calves because of traditional hunting ethics and antler restrictions. Hunting has had no effect of the overall decline of the GMU 13 moose. Managing only the hunters can not reverse the decline.

Questions:

- What policy guides moose management practices that result in drastically declining populations?
- Doesn't it make sense manage for utilization of the habitat?
- Doesn't it make sense to balance the population relationships between the natural predators and the prey?

Moose Calves in Unit 13 AWCA 103



|                  |     |       |       |       |       |       |       |       |       |      |      |      |      |      |
|------------------|-----|-------|-------|-------|-------|-------|-------|-------|-------|------|------|------|------|------|
| ■ Calves Born    |     | 22400 | 21200 | 19200 | 16250 | 17500 | 14800 | 13700 | 15500 | 9000 | 7000 | 6400 | 5000 | 4000 |
| ■ Hunter Harvest | 556 | 689   | 628   | 1280  | 955   | 893   | 1006  | 937   | 939   | 689  | 721  |      |      |      |

Caribou Trend Information  
Alaska Wildlife Conservation Association  
January 2003

Sources: ADF&G Harvest Surveys, ADF&G Annual Performance Reports, Federal Aid in Wildlife Restoration, BOG minutes, BOG Proposal Booklet(s).

Trends Graph: Over 13 years of information on caribou population and human harvest with the population objective used by the BOG and the ADF&G "commitment harvest" shown as reference.

Analysis: The ADF&G should identify a "standard" population for discussing the Nelchina Caribou Herd. They variously refer to the spring, post calving, and fall populations. Comparison over time is difficult because reports jump back and forth between the possible "populations".

The Post Calving population is extrapolated from aerial photos in late spring-early summer. It is not a true indicator of the population and the annual production because many calves are killed prior to the photo census. In November 1992, the ADF&G reported there were 50,000 caribou in the NCH. In 1999 they reported that the 1992 population was 45,484 adults. The peak population, then, was between 65,000 and 67,000 adjusted for calves and sub adults. The ADF&G proposed increasing the annual harvest to 6,000 to reduce the herd to 40,000. Harvest averaged 2,700 per year from 1987 to 1991. From 1996 to 1998 the annual harvest averaged 3,800.

Including "production" (base herd plus calves), only 6% of the peak annual population has been harvested since 1993. In March 1999 the ADF&G stated, "In recent years predation has not limited herd growth. Consequently, this caribou population is controlled primarily by human harvests under intensive management where yearly harvest estimates are based on annual calf production and survival estimates." For the last four years the post calving population has not put the herd in the population objective range, 35,000 to 40,000. Harvests have never reached the level claimed necessary to control the population, but the population declined anyway.

In 1996 the ADF&G said a harvest of 15,000 would reduce the herd to 40,000 by the spring of 1997. The harvest in '96 was 5601 but the spring population was less than 38,500. ADF&G made an objective to "maintain the harvest at 3,000". That goal requires sacrificing population to sustain harvest. They should be concerned about the overall population of the herd.

It is not possible for the harvest to have controlled the population of the NCH. The impacts of predation, not hunting, are controlling herd growth. The season was closed by emergency order in 1998, 1999, 2000, 2001 and 2002. In 2003 we will expect a significantly below 3000 harvest. The breeding population and harvest objectives are not being maintained.

Questions:

- What is proposed to increase production and survival to support the harvest objective?
- How long can a Tier II hunt continue under the present trends?
- Is it time to re-evaluate the "requirements" of harvest for Tier II and design a hunt that is partly Tier II and partly, for example, drawing permits?
- Is anything being done to change the Tier II qualifications so families who have subsisted on this herd since the '50 but don't live in Glennallen can have a chance of qualifying?
- Why are new to Alaska residents who qualify as federal "rural residents" given preference over hunters who have traditionally harvested the Nelchina caribou for generations?

Poor habitat has been used to "explain" why the population ceiling is 40,000 animals. However, when the herd exceeds the objective, as it did in the early 1990's, no evidence of degraded habitat is shown. During those years the Tier II needs have been met and Tier I hunts are possible. Perhaps it is time to consider raising the high population objective (40,000).

AMENDMENT

OFFERED IN THE HOUSE

BY \_\_\_\_\_

COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

TO: CSSB 155(RES)

1 Page 1, line 9, through page 2, line 17:

2 Delete all material and insert the following:

3 "(1) the Board of Game has determined based on information  
4 provided by the department

5 (A) in regard to an identified big game prey population under  
6 AS 16.05.255(g) that [COMMISSIONER OF FISH AND GAME ACTING  
7 UNDER A REQUEST FROM THE BOARD OF GAME MAKES WRITTEN  
8 FINDINGS BASED ON PREY POPULATION] objectives set by the board for  
9 the population have not been achieved, [UNDER AS 16.05.255(g)] that

10 [(A)] predation is an important cause for the failure to achieve  
11 the objectives set by the board [FACTOR CONTRIBUTING TO A LOW OR  
12 DECLINING PREY POPULATION THAT IS INCONSISTENT WITH A  
13 GAME MANAGEMENT PROGRAM AUTHORIZED BY THE BOARD OF  
14 GAME], and that a reduction of predation can reasonably be expected to aid in  
15 the achievement of the objectives [RESULT IN AIDING AN INCREASE IN  
16 THE PREY POPULATION OR IN ARRESTING THE DECLINE OF THE  
17 PREY POPULATION]; or

18 (B) that a disease or parasite of a predator population

19 (i) is threatening the normal biological condition of the  
20 predator population; or

21 (ii) if left untreated, would spread to other populations;

22 unless [AND]

23 (2) the commissioner, within seven days after adoption of the plan,  
24 determines in writing that [AIRBORNE OR] same day airborne shooting is not

1           necessary to achieve the objectives set [ACCOMPLISH A GAME MANAGEMENT  
2           PROGRAM AUTHORIZED] by the Board of Game."

**Management of Moose Populations in Alaska for Sustained Yield**  
Issue Paper for Native Summit on Fish, Wildlife, Habitat & Environment  
By Greg Roczicka - August, 2002 (edit 5-03)

**Introduction:**

The subject initially requested for this issue paper was to speak specifically to efforts at resolution of bear and wolf predation on moose in GMU 19D. The heart of the issue involved (effective predator control anywhere in Alaska) is one that simply cannot be adequately addressed in sufficient context at that level. It is an issue that affects user groups across the full spectrum of wildlife interests throughout Alaska; represents a prime example of the major difference in lower 48/urban vs.rural values; and under the lack of active management through the last decade, is a leading contemporary threat to maintaining the subsistence way of life: A threat that should be equal to, if not even exceed, expressed concerns about efforts to diminish subsistence protections sought or afforded through Title VIII of ANILCA.

In GMU 19D East, the dizzying spin and incomplete/misinformation presented to the public has been, for lack of a better term, disgraceful. Media headlines in the summer of 2001 proclaimed that there was "DOUBLE the amount of moose as found the year before" due to an error in survey methodology. They made NO MENTION that this "double amount" is still less than in 1995/96 when the Governor pounded the pulpit with vows and promises to do all in his power to reverse moose declines in this area, and the Board of Game initially authorized a GMU 19D predator control implementation plan. Professional ADF&G staff that tried to clarify or offer more objective information to the public were chastised, had their work censored to the point of obfuscation, or faced further administrative censure and threat to career if they attempted to pursue the matter.

Deflecting media attention on the issue to black bears as the primary cause and culprits for low moose numbers is a red herring of world record proportions. Certainly they are a significant component as the leading cause of calf mortality for 3-6 weeks during the months of June & July, and subsequent recruitment to the population. No discussion was presented (or allowed) however on the primary cause of mortality during the remainder of the year. Especially during the winter when the entire population - including the adult breeding component - becomes hugely more susceptible to predation, primarily from wolves. Habitat is not considered to be a significant limiting factor in this area. With the exception of a one-time snapshot study, physical body condition of moose appears healthy. Twining rates are at respectable levels. Weather conditions have been conducive to good winter survival rates in recent years. Hunting opportunity has been severely restricted. Yet the moose population remains severely depressed.

**Background/Problem Statement:**

As applied to Article VIII, Section 4 of the state constitution regarding Sustained Yield, the Courts have consistently ruled that the "yield" reference equates directly to "harvest", and the mandate is actually for maximum use.

- 1) The top priority of management purpose for populations customarily and traditionally used for subsistence purposes is to provide for reasonable opportunity;
- 2) The Board of Game is mandated to adopt regulations to this effect through specific subsistence statutes and Intensive Management law.
- 3) Failure of the State of Alaska to implement predator control (through administrative directive) constitutes a de-facto veto of Board of Game decisions, ignores and is in direct violation of existing statutes, and disregards the recommendations of its own professional area managers within the Dept. of Fish & Game made through decades of experience in their respective regions.

**Article VIII, Section 3. Common Use.** Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Lack of predator control serves only one segment of the public, and does so to the practical exclusion of common use and enjoyment by most all others that have long standing and continuing reliance upon moose as a primary or supplementary food source.

**Article VIII, Section 4. Sustained Yield.** "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." . What is perhaps saddest and most offensive in the current state of affairs is that active predator management provides more animals for the long term benefit of all user groups, be it harvested in memory, by camera, a rifle or any other means. Lack of it accommodates only the abstract, idealistic position that no wolf or bear population should ever be artificially limited to enhance human harvest. As referenced in the National Academy of Sciences report on predator/prey relations in Alaska, this follows directly down the path of a long-term, low-level population equilibrium for both prey and predator species; falling far short, or indeed in direct defiance, of the expressed mandate of utilization, development, or maintenance of the state's replenishable resources. The only statutory definition of sustained yield is contained in 16.05.255(i)(5), and calls for the direct opposite of the existing management vacuum. It has yet to be subjected to judiciary review or interpretation.

**Article VIII, Section 17. Uniform Application:** "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." Tourism, animal welfare and imposition of existence values on management are not "similarly situated" with the subject matter and purpose of subsistence use priority/preference, intensive management statutes, existing regulations, or the State Board of Game's stated purpose. Yet deferral to those views and their administrative placement as controlling factors to avoid effective predator control has to date, been in direct contradiction to the needs of not only subsistence uses, but practically to the point of exclusion, all other consumptive uses as well.

A.S. 16.05.221 (b) "For purposes of conservation and development of the game resources of the state, there is created a Board of Game." Observing moose populations plummet one after another (especially notable through compounded effects over the years since the 1996 ballot initiative banning same day airborne wolf hunting by the general public was imposed) without doing all in their power to prevent or reverse declines does not fulfill the Board of Game's statutory purpose.

16.05.258 (b)(3)(B) "The appropriate Board shall adopt regulations that eliminate other consumptive uses in order to provide a reasonable opportunity for subsistence uses;". The state has consistently maintained that subsistence is accorded the highest priority among beneficial uses. Yet that basic policy and premise is consistently discounted or entirely ignored when management decisions are predicated on deference to tourism terrorism threats and related considerations. Lack of action to date has been in deference to tourism and deification of wolves by primarily lower-48/urban moralistic/value-based interests, false perceptions predicated on misinformation, and self-serving idealism to the prevention and pre-emption of providing reasonable opportunity for subsistence needs and all other consumptive uses. Tourism and animal rights ideology have been termed as non-consumptive uses in the past. Their effective insertion of "no effective (aerial) predator control" into the administrative policy arena over consumptive uses should now equate to a demand that their constituency be treated as a competing consumptive as well. i.e. To enhance someone's perception of increasing chances to "feast their eyes" on a wolf, is substantially limiting opportunity for actual food on the table for basic physical sustenance; substantially disrupting the subsistence way of life; forcing elimination of sport/recreational hunting, the guide industry; and virtually assuring that most every moose hunt in the state will become Tier II only, in the immediate or not too distant future.. Under historical premises and existing law regarding competing consumptive uses, it hence should hold subordinate status to subsistence concerns and other consumptive uses in the decision making process.

Lack of effective, timely, and active predator control puts the state in direct violation of its statutory mandates for conservation and development of game resources, and makes a practical mockery in

practice, of the constitutional requirement for sustained yield. Allowing moose populations to sink and remain at low levels makes a farce of providing reasonable opportunity. We can only continue to hope that future administrations, Boards or other management entities will resist being party to such hypocrisy. Further, lack of active/effective predator control is directly contradictory to the guiding principles and purposes (contained in Sections 8 b through e, and 9 through 12) of the highly touted Millennium Agreement. What indeed is more fundamental than food! Both the Board of Game's position on wolf control and National Academy of Sciences Report on predator/prey relationships in Alaska, fully recognize that low-level equilibrium is the usual (natural) state of affairs, absent any management activities to prevent this occurrence. There is practically no greater threat to the future integrity of the subsistence way of life than an administrative or management policy that manages for low-level equilibrium numbers of game populations; and does so entirely in deference to commercial/recreational (i.e. tourism/non-subsistence) interests. The State of Alaska's stated "subsistence priority" or "human consumptive use" as the highest/best/preferred use of game populations becomes nothing more than another sad and sorry joke providing little more than lip service to its stated intent and purpose under such one sided application. How and where indeed are the concepts of justice and the greatest common good accommodated under such a singular policy purpose and inevitable effects?

This is not meant to deride the uninformed or misinformed general public, who has blown this crater of management vacuum so much wider and deeper through passage of ballot initiatives banning same day airborne hunting of wolves. But the precipitous decline in failing moose populations across the state can be traced directly to the ballot box biology of 1996 and 2000. One would be hard pressed to find a more concrete example of the road to hell (for moose and their consumptive dependents) being paved with good intentions. The urban/rural divide can only grow into an ever-deepening chasm without some equitable resolution of this issue.

On the matter of equity: Those who have dedicated decades of their lives to maintaining long-term integrity of the subsistence way of life for future generations; dealing with the front lines of highly controversial and contentious resource management issues; have traipsed the halls of Congress, streets of Washington D.C. and the United Nations w/ environmental advocates, cadres of celebrities and ilk either across the table or at their side; have served as delegates for their regions or the State of Alaska at local, national & international levels in treaty negotiations, protocol amendments and other matters of broad policy development or implementation (in such areas as salmon, migratory birds or marine mammals); Have Never have we encountered such a lack of willingness to accommodate another's point of view as that exhibited by animal rights proponents. Never has there been a group that already has so much influence for their cause in administrative/decision-making processes scream so loudly for more. As individuals many may be warm-hearted, well-intentioned people; as a group they portray practically the worst imaginable in mob mentality and religious fanaticism. It should be viewed as an utter sham(e) for them to state that their concerns are not heard, accommodated or reflected in management actions or decisions.

The growing successful movements of shoving moral superiority down the throats of rural Alaska (and the state as a whole); that we are somehow misguided, mentally defective individuals, or haven't given due consideration to norms of mainstream American society; if we do not allow ourselves to be converted into the cause (forsaking all others) of protecting wolves and bears at any cost; to accept and submit to such a level of assimilation and loss of subsistence opportunity that is the practical long term result of no effective predator/prey management with an attitude of resignation; all cry loudly for confrontation!

If opposition to predator control is more a matter of over-riding principle, why have we not heard one squawk about the State's full-fledged support and intent to severely reduce or totally eradicate Northern Pike in lakes of Southcentral Alaska to benefit Rainbow Trout populations? The only identifiable difference in practicality here is a matter of who is the majority constituency that benefits. Neither should

people let themselves be led down another false trail entities banner that predator control is a "fair chase" issue. Where predator control plans exist or are needed, the principle is just not applicable. Aerial harvest of wolves is simply the most efficient and humane method of achieving a predator/prey balance and rebuilding/maintaining moose populations for the benefit of all consumptive uses - including viewing.

Regarding our rapidly escalating moose deficit, and taking no action on wolves unless bears can be addressed concurrently: Reasonable people should wonder how that same premise of "all or nothing" would fly in applying the same premise and practice to the state's looming one billion dollar budget shortfall? i.e. We refuse to do anything to address a 25-50% known cause (with no significant harm or even a viable threat to the source or subject - representing wolves), until we can also include the remaining portion that is more difficult to assess, and requires much more complicated and careful consideration (representing bears). There is a serious failure of defensible logic in taking no proactive measures in this arena.

A point of public criticism often made is that management entities have been "too quick" to jump on predator control as the first or only answer. Those who contend such have simply not done their homework, are either unaware of or will not concede acknowledgement of, ongoing restrictions to hunting opportunity enacted by the Board of Game over the past 10 years. Nor the ongoing weeks, months and years of deliberations based on decades of observation, that include intense scrutiny of contemporary sustained habitat carrying capacity, and the overall preponderance of evidence in making these determinations. There are approximately 69 game management units and sub-units with the state. The Board has authorized predator control implementation plans into regulation in approximately 5 of these areas - hardly what any reasonable argument could deem as overly excessive. To put the matter in a more appropriate context that more people are perhaps more focused on and familiar with, we are simply fast approaching (in many places already arrived at) the point where the need for responsive/effective management constitutes a problem directly analogous and proportionate to two other huge issues facing our state. **The Budgetary/Fiscal Gap and Deferred Maintenance!**

Many of us read "Never Cry Wolf" in junior-high school. Its message struck and stuck at deeply emotional levels and may be largely credited with galvanizing the public outcry opposing wolf control as a righteous cause at the national level. (Although the story is reported to be entirely a work of fiction written by a Northeast Canadian barfly. Yes, George, Angeline, Uncle Albert and "family" are only figments of a besotted mind.) However anyone who takes the time to study the matter in-depth and maintain a mature, honest, open and objective view, can only find that the preponderance of evidence, beyond any reasonable doubt, supports such actions achieving their intended purpose.

#### Looking Ahead/Recommendations/Action:

Where is the issue going? It has become so politicized that the crux is now highly dependent on a firm stance of support and the fortitude to weather national criticism at the highest administrative levels (no more than equal to what has been consistently exhibited in advocating opening of ANWR to oil exploration and development in direct defiance of "environmentalist" concerns") that our moose populations are first and foremost, managed as a valuable and vital food source. Should such a change in administrative policy occur, animal welfare advocates would "lose" only as long as they chose to equate "losing" as seeing any effective predator/prey balance program actively implemented. Should such change not come to pass in the near future, the vast majority of all human user groups and moose populations throughout rural Alaska in the long term, all lose. And lose not just in the moral sense of animal rights protectionists, but crushingly so at the expense of maintaining integrity for future generations of the subsistence way of life!

An intensive public information/education and media campaign by the state and private entities interested in healthy, abundant moose populations for future use by generations of Alaskans should be pursued at local, regional, statewide and national levels. Many avenues are available through National Public Radio and PBS programming. Entities such as NOVA, NATURE, National Geographic, 60 Minutes, Hard Copy, CNN, Politically Incorrect, etc. may be persuaded to tackle the issue. Especially since pre-emption of effective, balanced predator/prey management is primarily a moralistic superiority subject; whose effectiveness is not substantially refutable by objective scientific data. And resulting moose productivity is undeniably supported by decades of direct observation and empirical knowledge. It could also be considered to solicit support from national organizations or known celebrities such as Robert Redford or Kevin Costner who purport to be staunch advocates of Native American Rights. The main question here would be whether such efforts would trigger the conceptual/emotional majority response values of Never Cry Wolf, or Dances With Wolves.

The above efforts could be pursued not only under the aspect of protecting the subsistence way of life, but also strongly asserting the State of Alaska's legal responsibilities referenced earlier. (There will almost certainly be no help from the Feds in this arena.) That predator/prey balance best fits the sustained yield standard of providing for the broadest spectrum of beneficial human use, and existing policy has been and remains a failure in complying with constitutional and statutory mandates.

#### 2 Attachments

##### Further References:

Board of Game and ADFG management reports and regulatory history, National Academy of Sciences Report on Predator/Prey Management in Alaska, Ongoing resolutions from TCC, AVCP, BBNA, AVCP, and AFN and Millennium Agreement between Sovereign Tribes and State of Alaska.

## Attachment 1 – Native Environmental Summit Issue Paper 8/02

**Moose population status and trend data in GMU's of concern since predator control programs not actively or effectively implemented (data as of February 2002):**

- 1) In GMU 13: Moose numbers have declined by 70+% over the last decade, down from an estimated 25,000 to 6-8000. Post season wolf population objectives by managers established at 165 animals. Current wolf population estimate is 4-600+. Brown bear population objective is set at 350. Current estimate is approximately 1,500. The most knowledgeable area biologists have stated nutritional stress of moose is not a factor, body conditions continue to be relatively good and twinning rates are at respectable levels, so habitat overall should not be considered a limiting factor. But that even total elimination of all human harvest activities will not help rebuild moose numbers unless predator control is a significant part of a management package.
- 2) In GMU 16B: Latest surveys (under good to excellent conditions) produced a total estimate of 3,800 moose – a 60% decline through the 90's. In the same time frame wolf populations have almost tripled (Most notably since 1996-97.) Staff informed the Board of Game that even total elimination of human harvest would have little to no effect in reversing these declines, and wolf numbers would need to be significantly reduced for moose numbers to rebuild.
- 3) In GMU 19D: Moose numbers were estimated at 5-8000 animals into the early 90's. Current estimates are 800-1,600. This area appears to have reached the pit of low-density equilibrium between predators and prey. Moose densities in this area are now among the lowest ever measured throughout the state of Alaska. As in GMU 13, habitat is not deemed to be a substantially limiting factor.
- 4) In GMU 19A: Moose here are managed by trend data since obtaining population estimates has been such a difficult task due to remoteness, weather and/or funding limitations. Habitat is considered to be in excellent condition, yet all data sets in the most recent survey (fall of 2001) found drastic reductions compared to 10 year averages prior to the 1996 ballot initiative (that included some very severe winters and resultant moose mortality)
  - Number of moose observed per hour was 59 – compared to prior 10-year average of 154
  - Calf/cow ratio was 8 per 100 – down from prior 10-year average of 56 per 100
  - Bull/cow ratio was 6 per 100 – compared to prior 10-rear average of 24 per 100
  - Total number of moose observed was 196 – down from prior 10-year average of 473.\*
  - Area manager conducting survey noted that not one moose was observed in area of former highest density (lower 20 miles of Hoholitna), but wolf tracks were evident on practically every river bend.

\*(Note: "High grading" survey conducted in this area in spring of '03 reflects further decline – Total # of moose observed was 116, w/ 7.6% short yearlings. As in other areas, it has been determined that even total elimination of human harvest will not be sufficient to arrest, much less reverse, population decline to low density equilibrium unless effective predator control is significant part of management action.)
- 5) GMU's 21B & D, 22, 23, 24 and 25A & B: Status paper provided by ADFG to Board of Game at their January 02 statewide meeting reported moose populations in all of these areas as decreasing. Local reports/knowledge from all of these areas have stated increasing numbers of wolves being observed in recent years as a matter of significant concern.