

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11102 SENATE COMMUNITY & REGIONAL AFFAIRS

State of Alaska
Department of Natural Resource
Division of Oil & Gas
 550 West 7th Avenue, Suite 800
 Anchorage, AK 99501-3560
 (907) 269-8800



Fax Cover Sheet

TO:	Miles Baker	PHONE:	
COMPANY:	Sen. Stedman	FAX NO.:	465-3922
FROM:	Marice Crossley	PHONE:	269-8802

FAX NO.: (907) 269-8938

DATE:	2 Feb 2004	TIME:	
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CC:

Number of pages including cover sheet: 23

- Urgent
 For Review
 Please Comment
 As You Requested
 FYI

Message: SB 266 - For your files.

This is the information sent to
 Senators Elton and Lincoln.

Support requested by Sen Lincoln with regard
 to Community & Native Support of this closure bill.

MEMORANDUM OF UNDERSTANDING**Between****ALASKA DEPARTMENT OF NATURAL RESOURCES****And****THE ALEUT CORPORATION****To****HOLD CONCURRENT OIL AND GAS LEASE SALES OF STATE AND TAC
LAND IN THE ALEUT REGION &
TO FACILITATE CONSTRUCTION OF A TRANSPORTATION
INFRASTRUCTURE THAT WILL SUPPORT THESE DEVELOPMENT
PROJECTS**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between the Alaska Department of Natural Resources (DNR) and The Aleut Corporation (TAC), collectively referred to as "the Parties." The purpose of this MOU is to contribute to the achievement of common goals and objectives of the Parties and to establish an effective communication framework between the Parties.

Background:

- A. The DNR is tasked with managing the State of Alaska's land in southwest Alaska and the natural resources contained therein, including oil, gas, and minerals, and TAC is responsible for managing its 1.572 million acre mineral estate on behalf of its 3,250 shareholders.
- B. Similar to the North Slope and Cook Inlet regions of Alaska, the Bristol Bay basin including portions of the Aleut region on the Alaska peninsula has been identified as having good potential for commercial quantities of oil and gas deposits.
- C. Any discoveries of, and subsequent development of, commercial quantities of oil, gas, & mineral deposits in the Aleut region should benefit both the State of Alaska and TAC's shareholders.
- D. Like other mineral deposits, oil and gas resources know no political boundaries, and it is often logical and desirable for two adjacent landowners to have similar land management and leasing programs in place.
- E. With TAC's support, the Alaska Division of Geological and Geophysical Surveys applied for a 3-year, \$700,000 U.S. Dept. of Energy grant to further evaluate the oil and gas potential of the Bristol Bay basin.
- F. The development of transportation infrastructure, as recommended by the Southwest Alaska Regional Transportation Plan, such as deep water ports, roads and airports, along the Alaska Peninsula should make oil, gas, and other mineral prospects more accessible, and thereby more economically feasible to explore and develop.

- G. The Alaska DNR, TAC, and BLM have been working collaboratively to rationalize ANCSA 17(b) and RS 2477 access issues.
- H. The Alaska DNR, TAC, and BLM have been working collaboratively to revoke obsolete federal land withdrawals in the Bristol Bay region.
- I. TAC supports the construction of an access road from Cold Bay to King Cove.

Agreements:

- The term of this MOU will be for five (5) years from the effective date and can be extended for five-year periods thereafter with the written agreement of the Parties.
- To the extent consistent with their respective interests and statutory or regulatory responsibilities, or corporate responsibilities, the Parties will work cooperatively to ensure that exploration and development activities are consistent with the land management and development plans of both Parties.
- The Parties agree that they will cooperate to ensure all development projects in the Aleut region are pursued in an environmentally responsible manner with maximum efforts to minimize impacts to fishery resources.
- TAC and the State of Alaska will work cooperatively to re-open offshore oil and gas prospects to exploration.
- Where reasonable to do so, the Parties will endeavor to synchronize the timing of their oil and gas-leasing schedule for their respective lands.
- The Parties will help facilitate the design and construction of a transportation network that will make oil, gas, and other mineral prospects more accessible and inter-connect communities.
- The Parties will communicate their development goals to other interested parties in southwest Alaska, such as tribal organizations, village corporations, and borough and city governments.
- The Parties will not act contrary to applicable laws, regulations, policies, and procedures.
- To the extent legally permissible, information generated pursuant to this MOU may be kept confidential when requested in writing by a party to this MOU. Information released by a party to this MOU must credit the source of the information.
- Where reasonable, the Parties will issue joint press releases on matters related to this MOU and will coordinate responses to media questions.
- Notices regarding actions under this MOU will be sent to (for each party):

DNR Commissioner
State of Alaska DNR
550 W. 7th Ave., Suite 1400
Anchorage, AK 99501-3561

Chief Executive Officer
The Aleut Corporation
4000 Old Seward Hwy, #300
Anchorage, AK 99503

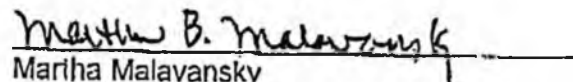
- This MOU may be terminated within thirty(30) days written notice by either Party.
- This MOU can be modified upon written consent of the Parties.
- Others may become party to this MOU upon written consent of the Parties.

Approved:



Tom Irwin, Commissioner
Alaska Dept. of Natural Resources

12/18/03
Date



Mariha Malavansky
President, TAC

12/18/03
Date

MEMORANDUM OF UNDERSTANDING**Between****ALASKA DEPARTMENT OF NATURAL RESOURCES****And****BRISTOL BAY NATIVE CORPORATION****To****FACILITATE OIL AND GAS LEASE SALES ON STATE AND BBNC LAND IN
THE BRISTOL BAY REGION**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between the Alaska Department of Natural Resources (DNR) and the Bristol Bay Native Corporation (BBNC), collectively referred to as "the Parties." The purpose of this MOU is to contribute to the achievement of common goals and objectives of the Parties and to establish an effective communication framework between the Parties.

Background:

- A. The DNR is tasked with managing the State of Alaska's land in southwest Alaska and the natural resources contained therein, including oil, gas, and minerals, and BBNC is responsible for managing its 3.1 million acre mineral estate on behalf of its 7,100 shareholders.
- B. Similar to the North Slope and Cook Inlet regions of Alaska, the Bristol Bay basin has been identified as having good potential for commercial quantities of oil and gas deposits.
- C. Exploration of oil and gas resources is a vital component to stimulating the local economy and providing jobs and economic opportunities in the region.
- D. The discovery of commercial quantities of oil and gas would provide an opportunity for low cost energy in the region, further stimulating the local economy.
- E. Any discoveries of commercial quantities of oil and gas in the Bristol Bay region will benefit both BBNC's shareholders and the State of Alaska, so it is in the best interest of the Parties to encourage exploration for such resources.
- F. BBNC has requested that the State facilitate on-shore oil and gas exploration in the region by holding annual areawide leasesales, beginning as soon as possible.
- G. Like other mineral deposits, oil and gas resources know no political boundaries, and it is often logical and desirable for two adjacent

landowners to have similar land management and leasing programs in place.

- H. With BBNC's support, the DNR's Division of Geological and Geophysical Surveys applied for a 3-year, \$700,000 U.S. Dept. of Energy grant (\$150,000 of cash and in-kind contributions to be provided by BBNC) to further evaluate the oil and gas potential of the Bristol Bay basin.

Agreements:

The Parties agree to the following provisions:

- The Parties will work cooperatively to facilitate oil and gas leasesales of state and BBNC lands in the region to be held as soon as feasible.
- The Parties will cooperate to ensure all development projects in the Bristol Bay region will be pursued in an environmentally responsible manner and will minimize impacts to fishery resources.
- The Parties will work cooperatively to convince the federal government to re-open federal offshore oil and gas prospects in the region to exploration.
- The Parties will endeavor to synchronize the timing of their oil and gas leasing schedule for their respective lands.
- The Parties will help facilitate the design and construction of a transportation network that will make oil, gas, and other mineral prospects more accessible and inter-connect communities in the region.
- The Parties will communicate their development goals to other interested entities in southwest Alaska, such as tribal organizations, village corporations, and borough and city governments.
- The Parties will not act contrary to applicable laws, regulations, policies, and procedures.
- To the extent allowable by statutes and regulations, the Parties will share information that will assist in accomplishing the objectives of this agreement.
- Where reasonable, the Parties will issue joint press releases on matters related to this MOU and will coordinate responses to media questions.
- Notices regarding actions under this MOU will be sent to (for each party):

DNR Commissioner
State of Alaska
550 W. 7th Ave., Suite 1450
Anchorage, AK 99501

Chief Executive Officer
Bristol Bay Native Corporation
800 Cordova Street
Anchorage, AK 99501

- The term of this MOU will be five (5) years from the effective date and can be extended for five-year periods thereafter with the written agreement of the Parties.
- This MOU may be terminated with thirty days written notice by either Party.
- This MOU can be modified upon written consent of the Parties.


- Others may become party to this MOU upon written consent of the Parties.

Approved:



Thomas E. Irwin, Commissioner
Alaska Dept. of Natural Resources

7/10/03
Date



Tom Hawkins
SRVP & COO, BBNC

7.10.03
Date

P.O. BOX 189
NAKNEK, ALASKA 99633

www.theborough.com



TELEPHONE
(907) 246-4224
FAX
(907) 246-6633

Bristol Bay Borough

October 22, 2003

Commissioner Tom Irwin
Department of Natural Resources
550 W 7th Avenue, Suite 1400
Anchorage, Alaska 99501

RECEIVED
OCT 27 2003
DIVISION OF
OIL AND GAS

RE: Bristol Bay Region: Oil and Gas Programs
Public Comments Due October 30, 2003

Commissioner Irwin:

Please consider the following comments from the Bristol Bay Borough:

1. The Bristol Bay Borough Assembly is in strong support of the State of Alaska's recent efforts to advance oil & gas exploration in the Bristol Bay region.
2. The Bristol Bay Borough is committed to finalizing a Memorandum of Understanding with the Alaska Department of Natural Resources outlining critical areas of interest with respect to regional oil & gas development and outstanding municipal lands issues.
3. The Bristol Bay Borough is supportive of the continued public outreach evidenced to date by the State of Alaska on the Bristol Bay oil & gas exploration initiative and anticipates that this outreach effort will remain constant throughout the proposed development timeline.

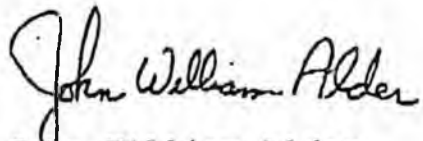
DEPARTMENT OF
NATURAL RESOURCES

OCT 24 2003

Letter to Commissioner Irwin
October 22, 2003
Page 2

4. The residents of the Bristol Bay Borough are heavily dependent upon the robust regional fish & wildlife resources for subsistence needs. While the Bristol Bay Borough Assembly is in support of resource development, all development must proceed with due diligence in order to minimize potential negative impacts to the fish & wildlife resources.
5. Local knowledge of regional environmental conditions and fish & wildlife characteristics is one of our greatest resources in the Bristol Bay region. Accordingly, the Bristol Bay Borough recommends that all state agencies proceed throughout the oil & gas development process in a method that relies heavily upon local input. Any subcommittees or advisory panels empowered by the state should include local knowledgeable residents.
6. The Bristol Bay region has long suffered from seasonally sporadic employment. The regional oil & gas development initiative offers an exciting departure from the long winter season low employment cycle. The Bristol Bay Borough Assembly strongly urges the State of Alaska to continue in its expressed commitment to channel oil & gas employment training through the newly established Southwest Alaska Vocational Education Center (SAVEC) in King Salmon thereby enabling optimal local hire during exploration and development of potential oil & gas prospects.

Sincerely,



John William Alder
Borough Manager

cc: Mayor Michael Swain
Borough Assembly members

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF
 KING COVE SAND POINT AKUTAN COLD BAY FALSE PASS NELSON LAGOON

October 14, 2003

James Hansen,
Leasing Manager
Division of Oil & Gas
Department of Natural Resources
550 West 7th Avenue, Suite 800
Anchorage, AK 99501

Ref.: Proposed Alaska Peninsula & Bristol Bay
Oil & Gas Leasing Program

Dear Mr. Hansen,

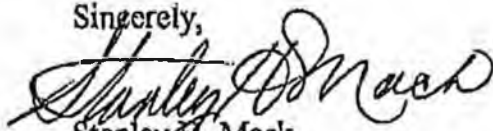
The Assembly of the Aleutians East Borough wants to thank you and your team for the presentation on October 7, 2003. Even though the weather did not allow everyone to get to Cold Bay, the Assembly's comments after the meeting included their appreciation of your efforts to brief the Assembly and the residents of the Aleutians East Borough.

First, it is the Borough's understanding that if there is Best Interest Finding, all development will take place within the State's jurisdiction and that there will be no development off shore. Furthermore, the Borough understands that the majority of the development will likely be on State owned land. Second, the concerns voiced by the people of Nelson Lagoon are symptomatic of the concerns of the majority of the Aleutians East Borough's residents. They were:

1. We need to protect our fish and game resources.
2. We need local jobs and employment at all stages of development. This must be at all levels, management, technical and labor, union and non union, should oil or gas be produced within the Aleutians East Borough.
3. We need any and all exploration sites returned to their original nature.

To this end, the Assembly passed a motion supporting the State of Alaska's efforts to conduct a Best Interest Finding process for the proposed oil & gas leasing program on the Alaska Peninsula.

Sincerely,



Stanley M. Mack
Mayor

RECEIVED
OCT 16 2003
DIVISION OF
OIL AND GAS

CLERK/PLANNER
P.O. BOX 349
SAND POINT, AK 99661
(907) 383-2699
(907) 383-3496 FAX
e-mail: AEBCLERK@aol.com

BOROUGH ADMINISTRATOR
3380 C STREET, SUITE 205
ANCHORAGE, AK 99503-3952
(907) 274-7555
(907) 276-7569 FAX
e-mail: aebanc@acl.net

FINANCE DIRECTOR
P.O. BOX 49
KING COVE, AK 99612
(907) 497-2588
(907) 497-2386 FAX
e-mail: aebfinance@aol.com

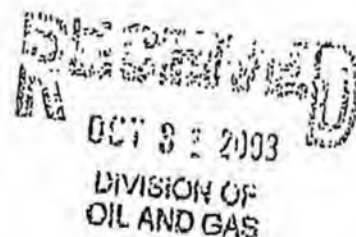


Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421

Fax: (907) 246-6602



October 27, 2003

Patrick Galvin, Petroleum Land Manager
Division of Oil & Gas
550 W 7th Ave, Suite 800
Anchorage, Alaska 99501-3560

RE: Call for Comments, AK Peninsula Areawide 2005 Oil & Gas Lease Sale

Dear Mr. Galvin:

First, we would like to thank the Governor, the Governors staff and those within DNR's Oil & Gas Division for the recognition of the extra attention required "to get the word out" to those who live on the Alaska Peninsula concerning the upcoming oil and gas lease sales. There are many communication gaps in bush Alaska making your task that much more difficult.

The regional meetings in Dillingham, Bristol Bay Borough (Naknek) and in the Lake & Peninsula Borough offices (King Salmon) were instrumental in ensuring accurate information is "passed along" to others. However, due to the size of the Lake and Peninsula Borough and the steep transportation costs to travel between villages, some over 1 hour away from King Salmon by plane, I would encourage you consider additional informational meetings to be held in Port Heiden, Iliamna, and the Chignik, ASAP. We will be glad to provide you with local contacts for those communities.

Lake & Peninsula Borough responded earlier to Mr. James Hansen's request for information providing copies of the borough's latest Community Economic Development Strategies document. Additionally, community profile maps will soon be available (expected by June 2004) on-line at DCED's website of all the villages within the Borough. These maps will contain several layers of information readily accessible by the user. Local information pertaining to sensitive cultural areas, traditional hunting or gathering areas and local historic sites are included on most community maps (local preference so not every village map contains this information). These maps will no doubt prove to be invaluable relating to potential exploration that might be considered in close proximity to a village.

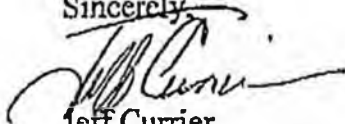
Finally, the Lake and Peninsula Borough supports onshore exploration and development but are concerned that the Best Interest Findings developed from this "call for comment period" also apparently apply to the 1.5 million acres of offshore acreage included in the lease sale, and further, that those findings are valid 10 years out.

We want to make it perfectly clear that while we are in support of onshore exploration and leasing, "the jury is still out" in most Borough villages when it comes to offshore exploration. I suspect much more information and discussion with the village leaders around the Bay will be required before offshore activities receive a majority of local support.

By supporting the current lease sale proposal, the resulting exploration and possible development of onshore sites within the next 5 years, we want to ensure we do not lose the ability to consider through separate actions, any potential exploration and development of offshore acreage in the future.

Thank you for the opportunity to provide this input. Please feel free to contact me as may be necessary.

Sincerely,



Jeff Currier
Borough Manager

P.O. Box 189
NAKNEK, ALASKA 99633

www.theborough.com



TELEPHONE
(907) 246-4224
FAX
(907) 246-6633

Bristol Bay Borough

BRISTOL BAY BOROUGH RESOLUTION 2002-02

A RESOLUTION SUPPORTING OIL & GAS EXPLORATION ON NATIVE CORPORATION LANDS NEAR BRISTOL BAY BOROUGH

WHEREAS, Bristol Bay Borough and Communities throughout Western Alaska face difficult economic conditions due in part to high costs of living, high costs of energy and depressed fish prices and;

WHEREAS, all refined petroleum products required to operate home heating furnaces, electrical generators, cannery retorts and fish harvesting vessels are imported into the region and stored, both at very high costs and;

WHEREAS, the oil & gas industry has in the past expressed interest in exploring for reserves on the Alaska Peninsula on or near lands currently owned by the Alaska Peninsula Corporation and Bristol Bay Native Corporation as well as other lands in the region and;

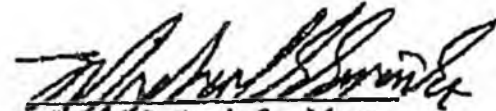
WHEREAS, the interest was significant enough for the private sector to invest considerable capital in seismic and actual drilling exploration and;

WHEREAS, Senator Stevens in recent conversations with Bristol Bay Borough officials and before the Alaska State Legislature indicated a willingness to petition Congress to add funding to the United State Geologic Survey in order to enable regional oil & gas assessments throughout rural Alaska and;

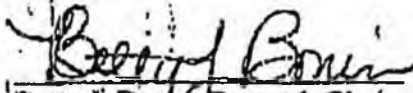
WHEREAS, potential development of oil & gas reserves on the Alaska Peninsula would likely yield direct benefits to the Bristol Bay Borough, borough residents and businesses and economic development efforts to revive our ailing economy and,

NOW THEREFORE BE IT RESOLVED, that the Bristol Bay Borough Assembly strongly encourages the local & regional Bristol Bay ANCSA corporations to work closely with the Borough, private sector oil & gas firms and the Congressional delegation in the wise development of our natural oil & gas resources in an effort to optimize benefits to the overall Bristol Bay region and State of Alaska.

PASSED AND APPROVED, by a duly constituted quorum of the Bristol Bay Borough Assembly on this 4th day of February, 2002.


Michael S. Swain Sr., Mayor

ATTEST:


Betty J. Borjas, Borough Clerk

JUL-02-03 WED 01:37 PM

FAX NO. 2698904

P. 08/27
4184
JP
TS



Bristol Bay Native Corporation

Enriching Our Native Way of Life

800 Cordova Street, Suite 200 / Anchorage, Alaska 99501-6299 / (907) 278-3602 / fax (907) 276-3924

VIA FEDEX & FAX: (907) 465-3532

June 26, 2003

Honorable Frank Murkowski, Governor
P.O. Box 110001
Juneau, Alaska 99811

Fax Received
JUN 26 2003
Office of the Governor

Subject: **Support for Leasing Program in the Bristol Bay Region**

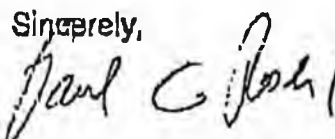
Dear Governor Murkowski:

Residents of the Bristol Bay region sorely need your help in order for them to help themselves. We need you to institute an oil and gas leasing program in Bristol Bay. We've compared and contrasted the pros and cons of exploration licensing and leasing, and we believe that, for several reasons, the State's best option is to put its uplands on the leasing schedule.

First, the "leasing notice" is announced to a wider audience than the exploration licensing notice is. Second, leasing, since it includes rental, bonus, and minimum work commitment terms, generally generates more revenue and more information for the State. Lastly, the land leased can be more than the 500,000-acre "cap" imposed by the exploration-licensing program, and this may be more desirable from the industry's standpoint.

BBNC has embarked on a mission to reinvigorate the environmentally responsible exploration for, and development of, oil and gas resources in Bristol Bay. We've also received the blessing, by resolution, of several Bay-area organizations that recognize the need for more jobs and cheaper energy. I've attached copies of the fourteen resolutions I've received so far, which include both regional and village-level organizations.

If you have any questions, please call me at 1-800-478-3602.

Sincerely,

Paul C. Roehl
V.P., Land & Resources

Cc: Tom Irwin, DNR Commissioner
Randy Ruiderich, AOGCC Commissioner
Mark Myers, DOG Director
BBNC Board of Directors

Post-It® Fax No: 7671	Date: 6/26/03	Page: 2 of 2
To: Gov. Murkowski	From: Paul Roehl	
Co./Dept: State of Alaska	Co.: BBNC	
Phone #	Phone #	
Fax # (907) 465-3532	Fax #	



King Salmon Tribe

People of the Village

P.O. BOX 55 KING SALMON, AK 99612
TEL: 907/246-3553 FAX: 907/246-3449
E-MAIL: ktvs@bristolbay.com

September 15, 2003

Bristol Bay Native Corporation
800 Cordova Street
Suite 200
Anchorage, AK 99501-6299

VIA FACSIMILE: 907/276-3924

Dear Mr. President:

As you know, Bristol Bay has been faced with economic failure year after year, due to the low return of salmon and the low prices paid to the fisherman. Because of the failure in our fishery, our people are faced with having to live in poverty. We can no longer pretend that our fisheries will be, as we knew it. Other than fishing, most of our people in our villages have very few economic opportunities. As a result, we have friends and family fighting amongst themselves for these limited jobs. Until there are economic changes in place, we will forever be faced with economic despair because there are no other means to provide for ourselves other than what we have today. We need economic diversity.

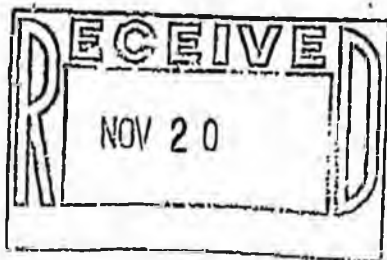
The village of King Salmon is in support of developing our oil and gas reserves both onshore and offshore and developing our mineral deposits here in Bristol Bay. We also support ground transportation from King Salmon to Anchorage so that we can reduce transportation costs to promote economic opportunities. This would also reduce the cost of living in our villages and region. Whether any of these development issues take place remains to be seen. However, we cannot continue to impoverish our people because of differences of opinions in regards to economic development.

It is unfair of people and organizations who criticize development in our region when in fact they offer no solutions to address our current short and long-term needs. In addition, many people who are opposed to economic development have good paying jobs, or work and live outside our region. Yet, many try to dictate what is best for us and our villages.

In closing, the village of King Salmon asks that we all put aside any differences that we may have of economic development in Bristol Bay. Our people deserve more than having to live in poverty and the consideration of going on welfare.

Sincerely,

Ralph Angasan, Sr.
President



NEWHALEN TRIBAL COUNCIL
100 POWER LANE
P.O. BOX 207
NEWHALEN, AK 99606
PHONE (907) 571-1410 OR (907) 571-1317
FAX (907) 571-1537
EMAIL NEWHALENTRIBAL@STARBAND.NET

November 12, 2003

Fred Angasan
Bristol Bay Native Association
P.O. Box 310
Dillingham, Alaska 99576

NOV 25 2003
E.L. ...
OIL AND GAS

Re: Native Village of Newhalen Statement of Interest

Dear Mr. Angasan;

The Newhalen Tribal Council has become increasingly aware of potential resource development activities within our area. In particular, we are aware of the increasing interest in the Pebble Copper mine. We believe resource development has the ability to bring economic opportunities to our community. However, we are concerned that improper management, poor planning and the lack of consideration of our local concerns can adversely affect our interests.

- On November 12, 2003 the Newhalen Tribal Council discussed our understanding of the potential commercial viability of the Pebble Copper mine. In addition, we discussed our understanding of the State of Alaska's Roads to Resources program and the current efforts to revise the Bristol Bay Area Plan. Through our discussion we identified the need to ensure the opportunity for active participation, effective public involvement and cooperative consultation regarding these matters.

We are writing to notify you that we have identified Joanne Wassillie as the primary point of contact for the Native Village of Newhalen. Joanne can be reach at:

Joanne Wassillie, Administrator
Newhalen Tribal Council
P.O. Box 207
Newhalen, Alaska 99606
(907) 571-1410 (907) 571-1537 fax

- We request that you add our designated point of contact to all public/stakeholder distribution lists so that the Newhalen Tribal Council will receive adequate advance notice of all upcoming public meetings related to the development of the Pebble Copper mine, including planning efforts by the State of Alaska to promote natural resource development within our region.

Newhalen Tribal Council

100 Power lane

P.O. Box 207

Newhalen, AK 99606

phone (907) 571-1410 or (907) 571-1317

Fax (907) 571-1537

EMAIL NEWHALENTTRIBAL@STARBAND.NET**RESOLUTION 03-24****A RESOLUTION OF THE NEWHALEN TRIBAL COUNCIL FOR DEVELOPING AND MAINTAINING AN ACTIVE VOICE AND PARTNERSHIP WITH ALL APPROPRIATE GOVERNMENTAL, PUBLIC AND PRIVATE SECTOR ENTITIES FOR THE SUSTAINABLE DEVELOPMENT OF NATURAL RESOURCES AND FOR RELATED PURPOSES.**

WHEREAS: the Native Village of Newhalen is a federally recognized tribal government possessing the powers of a sovereign entity and the rights of self-determination; and

WHEREAS: the Newhalen Tribal Council is the governing body for the Native Village of Newhalen and is authorized and responsible to protect its members, property, resources and interests; and

WHEREAS: the protection of the health, safety, and welfare of our tribal members, families and village is critical to the exercise of tribal self-governance and self-determination; and

WHEREAS: the tribal members of Newhalen rely on subsistence resources and the subsistence way of life which is essential to meet the nutritional, cultural and traditional needs and values of the tribe; and

WHEREAS: the health, productivity and availability of our subsistence resources are critical to the health, safety and welfare of our tribal members, families and village; and

WHEREAS: the development of natural resources, including mining, oil and gas development, and associated transportation infrastructure, may adversely affect the health, safety and welfare of our tribal members, families and village, and the subsistence resources we rely on, if not properly planned, designed, sited, operated, managed or maintained; and

WHEREAS: proper planning, design, siting, operation, and management of development projects, and all associated activities and infrastructure, requires the active involvement, cooperation, coordination and consultation at all levels (tribal, federal, state, local and international governments and private and public sectors); and

WHEREAS: the Tribal Council is aware that Northern Dynasty Minerals Limited is actively accessing the economic viability of the Pebble Copper mine which is considered to be one of the largest copper-gold deposits in the world; and

WHEREAS: the Tribal Council is aware that the Pebble Copper mine is being considered under the Department of Transportation & Public Facilities 'Roads to Resources' program and that Department of Natural Resource is revising the Bristol Bay Area Plan which governs resource management on state land; and

WHEREAS: the Tribal Council wishes to ensure its active involvement, participation and consultation through governmental, public and political processes to ensure protection of tribal interests and rights and the protection of the health, safety and welfare of our tribal members, families and village.

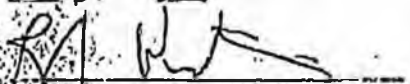
NOW THEREFORE BE IT RESOLVED, that the Newhalen Tribal Council hereby authorizes the Tribal President, with the assistance of the Tribal Administrator, to serve as the lead point of contact for all correspondence related to the development of the Pebble Copper mine, including all correspondence related to the state's Roads to Resource program and the Bristol Bay Area Plan revisions.

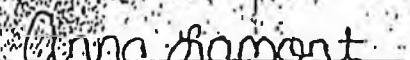
BE IT FURTHER RESOLVED, that the Newhalen Tribal Council hereby directs the Tribal President to forward a letter to all appropriate governmental, public and private sector entities notifying them of Newhalen Tribal Council's interest in being actively involved, informed, and consulted regarding matters related to the development of the Pebble Copper mine and associated activities.

BE IT FURTHER RESOLVED, that this resolution is intended for the stated purpose of establishing and fostering cooperative relationships with Tribal, State, Federal and local governments and private and public sector entities and should not be used as an approval or disapproval of the Pebble Copper mine, and shall not be interpreted in any way to diminish the protected rights and interests and unique legal status of the Native Village of Newhalen as a federally recognized tribe.

BE IT FURTHER RESOLVED, that Mr. Raymond Wassillie, President of the Newhalen Tribal Council, or his designee, hereby authorized to sign and or negotiate any terms, or conditions, or modifications to this "638" contract with the Bureau of Indians Affairs.

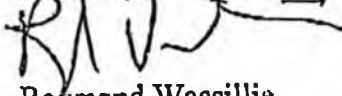
This resolution was duly considered and adopted at the general meeting of the Newhalen Tribal Council called and convened this 12 day of Nov, 2003 by a vote of 6 in favor and 0 against 0 abstain.


Raymond Wassillie, President


Anna Lamont, Secretary

The Newhalen Tribal Council wishes to establish and foster on-going cooperative relationships with those governmental, public and private sector entities associated with the potential development of the Pebble Copper mine to ensure the interests of the Native Village of Newhalen are protected. We look forward to working with you in the future and if we can be of any assistance please contact Joanne.

Sincerely;



Raymond Wassillie
President

2832
JP

CITY OF ALEKNAGIK

P.O. Box 33, MAIN STREET
ALEKNAGIK, ALASKA 99555-0033
PHONE: 907-842-5953 OR 842-2528
FAX: 907-842-2107
EMAIL: cityalek@nushtel.com

April 11, 2003

Governor Frank H. Murkowski
Office of the Governor
3rd Floor State Capital, Mail Stop 0001
P.O. Box 110001
Juneau, Alaska 99811-0001

RECEIVED

APR 16 2003

GOVERNOR'S OFFICE

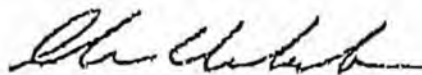
RE: Oil and Gas Development in Bristol Bay

Dear Governor Murkowski:

The City Council of the City of Aleknagik passed Resolution 03-11 supporting OCS 92 lease sales for oil and gas development in Bristol Bay at their regularly meeting on April 8, 2003. The City of Aleknagik supports economic development, local jobs, lower energy costs, less dependence on foreign oil, and protection of the fisheries and environment.

Please support oil and gas development in Bristol Bay and help to move up the OCS sales from 2011 to the earliest possible date. Thank you for your time and favorable consideration.

Sincerely,



Chris Chuckwuk
Mayor

Enclosure: Resolution 03-11

cc: Senator Ted Stevens
Senator Laura Murkowski
Congressman Don Young
Alaska State Legislature
Paul Rochl, Bristol Bay Native Corporation

CITY OF ALEKNAGIK
RESOLUTION 03-11

A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF ALEKNAGIK
SUPPORTING OCS 92 LEASE SALES FOR OIL AND GAS DEVELOPMENT IN
BRISTOL BAY.

WHEREAS, Outer Continental Shelf (OCS) Sale 92, which occurred in October 1988, garnered nearly \$96 million in oil and gas bids for 122,000 acres contained in 23 leases; and

WHEREAS, the lease sale happened at a time when the price for sockeye salmon was high (up to \$2.60/lb.) and the price for oil was relatively low (\$17.30/bbl.); and

WHEREAS, the high commercial value of salmon in the late 1980's, coupled with the threat posed by the oil industry to salmon and wildlife habitat (particularly after the March 1989 Exxon Valdez oil spill), resulted in widespread opposition to the OCS 92 lease sales, and eventually lead to the cancellation of those lease sales and the return of the bid proceeds to the respective oil companies; and

WHEREAS, lease sale area OCS 92 is not scheduled to be revisited by the U.S. Minerals Management Service until 2011; and

WHEREAS, the environmentally responsible exploration for, and development of, Bristol Bay oil and gas resources could create needed high-paying, rewarding jobs for the people of the region, especially given the recent, disastrous Bristol Bay commercial salmon seasons; and

WHEREAS development of these oil and gas resources could also result in substantially reduced heating and energy costs for residents in the Bristol Bay region, and could enhance the competitiveness of the Bristol Bay commercial salmon and other industries, such as mining; and

WHEREAS, given the rising tensions in the Middle East, it is becoming increasingly clear that America's dependence on foreign oil imports is highly undesirable, both from a strategic and domestic standpoint.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Aleknagik that the City of Aleknagik strongly supports oil and gas exploration and development in the Bristol Bay region provided maximum protection be given to the fishery resources and that exploration and development be done in an environmental manner; and

BE IT FURTHER RESOLVED that the City of Aleknagik supports immediate exploration and development of the OCS 92 area and request the assistance of Senator Stevens, Senator Murkowski, Congressman Young, Governor Murkowski, and the

Alaska State Legislature to assist in moving the OCS sales schedule up from 2011 to 2004 or as earliest as possible.

PASSED AND APPROVED this 7 day of April, 2003 at Aleknagik, Alaska.

SIGNED:


Chris Cluckwuk, Mayor

ATTEST:


Pauline Kohler, City Clerk



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

*February 02, 2004
1:30 – 3:30 PM
Fahrenkamp 203*

POTENTIAL WITNESSES

Mark Meyers, *Director, Div of Oil & Gas, Dept Natural Resources*

Shawn Parnell, *Deputy Director, Div of Oil & Gas, Dept Natural Resources*

Support Staff:

Janet Baxter – *Legislative Liaison, Dept Natural Resources*

Marie Crosley – *Dept Natural Resources (Via Off-Net)*

Pirtle Bates – *Dept Natural Resources (Via Off-Net)*

Jim Hansen – *Dept Natural Resources (Via Off-Net)*

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/14/04

FURTHER: Resources

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/2/04

Community and Regional Affairs Committee considered SENATE BILL NO. 266

SB 266 BRISTOL BAY OIL & GAS LEASE SALE CLOSURE

"An Act approving an interim classification by the commissioner of natural resources closing certain land within the area of the proposed Bristol Bay (Alaska Peninsula) competitive oil and gas areawide lease sale to oil and gas exploration licensing and shallow natural gas leasing; and providing for an effective date."

and recommends:

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

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DNR	12/2/03			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Thomas H. Wagner</i>	X			
<i>Gemma A. Rucinski</i>			✓	
<i>Bob H. Peterson</i>	X			
<i>[Signature]</i>	X		✓	
CHAIR:				

Chair

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 266
(S) Publish Date: 1/14/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Mineral Closing Order for Bristol Bay RDU: Resource Development
Oil and Gas Competitive Sale Area Component: Oil and Gas Development
Sponsor: Rules
Requester: Governor Component No.: 439

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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						

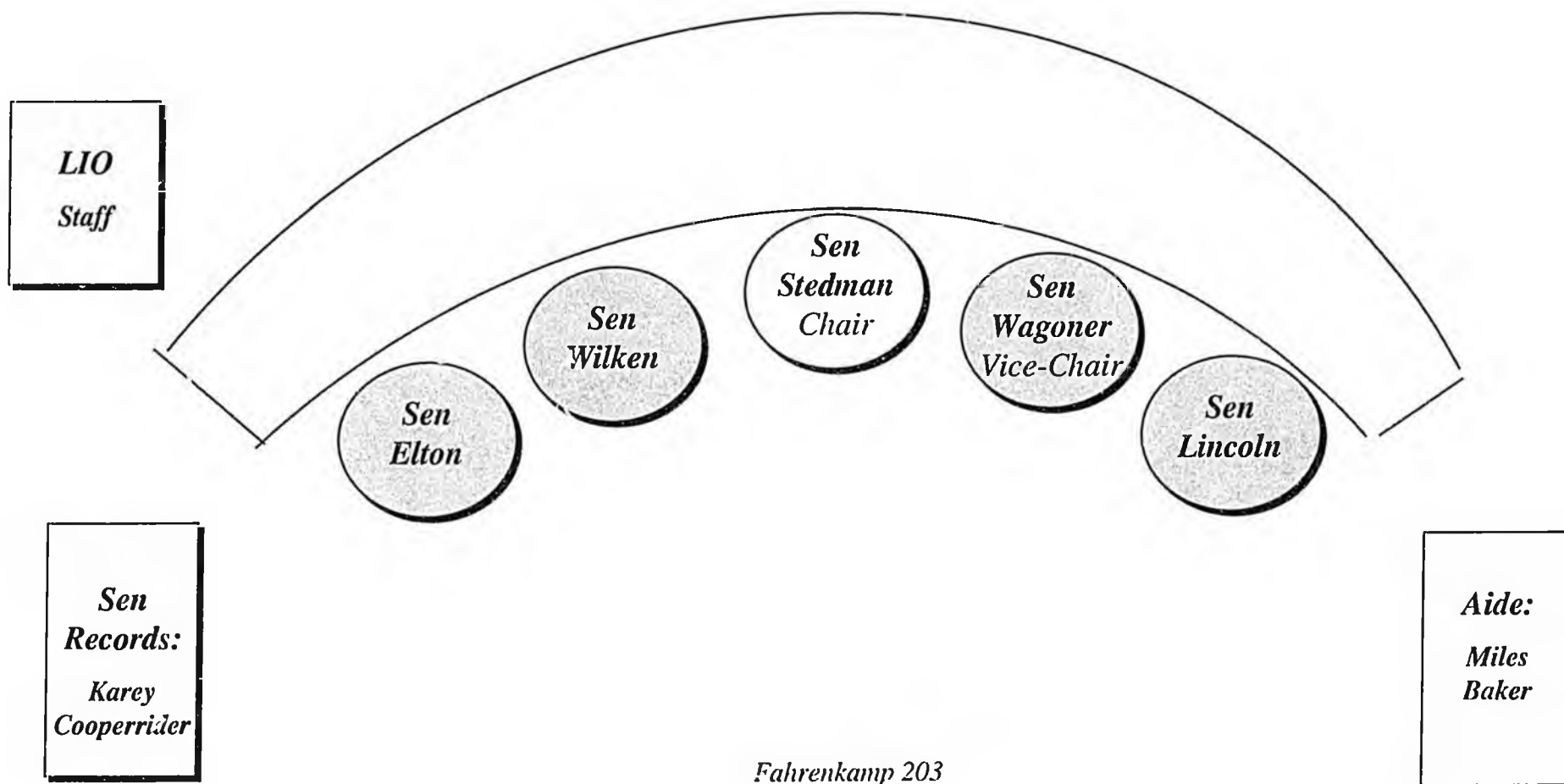
ANALYSIS: (Attach a separate page if necessary)

This legislation ensures that land remains available for the competitive sale program under AS 38.05.180. The bill approves an interim classification by the commissioner of natural resources closing land in the proposed Bristol Bay (Alaska Peninsula) competitive oil and gas areawide lease sale to oil and gas exploration licensing under AS 38.05.131-38.05.134 and shallow natural gas leasing under AS 38.05.177.

No fiscal impact.

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 12/2/03
Approved by: Thomas Irwin, Commissioner Date 12/2/03
Agency: Natural Resources

*Senate Community & Regional Affairs
Committee*



SB

267

GARY WILKEN

SENATOR
Fairbanks

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714



During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator.Gary.Wilken@legis.state.ak.us

SPONSOR STATEMENT

Senate Bill 267 Senior Widow(er) Property Tax Exemption

Senate Bill 267 extends the senior or disabled veteran property tax exemption to a widow or widower of an eligible resident. Under current law, a resident 65 years of age or older is exempt from property taxation on the first \$150,000 of the assessed value of the person's primary residence. Unfortunately if the eligible resident dies, the remaining spouse is denied the benefit of the previous exemption unless the spouse is at least 60 years old.

Coping with the loss of a love one as well as the accompanying loss of financial security is difficult enough without the added burden of increase property taxes. Senate Bill 267 permits a widow or widower of a qualified applicant to remain eligible for the senior or disabled veteran property tax exemption regardless of age until the individual remarries. This legislation helps make a difficult situation a little bit easier.

As the residence in question is already exempted from taxation, Senate Bill 267 will have negligible impact on a municipality. However, this legislation will have a huge impact on the effected individual. Please join me in endorsing and supporting this legislation.

A handwritten signature in cursive script, appearing to read "Gary Wilken", is located below the text of the statement.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Sec. 29.45.040. Property tax equivalency payments. (a) A resident of the state who rents a permanent place of abode is eligible for a tax equivalency payment from the state through the department if the resident is:

- (1) at least 65 years old;
- (2) a disabled veteran; or
- (3) at least 60 years old and the widow or widower of a person who was eligible for payment under (1) or (2) of this subsection.

(b) For purposes of determining the amount of a payment to an eligible person, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain a tax equivalency payment the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. The department for good cause shown may waive an applicant's failure to make timely application for a tax equivalency payment and accept the application as if timely filed. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid. A disabled veteran shall submit with the application evidence of the disability rating.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for a tax equivalency payment under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, a tax equivalency payment to an eligible applicant may not be reduced because the spouse is less than 65 years of age or is not a disabled veteran. If all occupants in a residence are eligible for a tax equivalency payment under this section, the occupants shall decide between and among themselves which shall receive payment.

(e) If appropriations are not sufficient to fully fund tax equivalency payments under this section, the amount available shall be distributed pro rata among eligible residents.

(f) In this section "disabled veteran" has the meaning given in AS 29.45.030(i). (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 91 SLA 1985)

Revisor's notes. — The amendment made to (a) of this section by § 3, ch. 91, SLA 1985 was enacted as an amendment to AS 29.73.060(a). Chapter 74, SLA 1985 enacted AS 29.45.040 and repealed AS 29.73.060. The effective date of both 1985 Acts is January 1, 1986. The legislature's intent to amend the

tax equivalency provisions has been recognized by treating the amendment to AS 29.73.060(a) as an amendment to (a) of this section. Subsection (e) of this section was enacted as AS 29.73.060(f) and renumbered in 1985. Subsection (f) of this section was enacted as (e) and renumbered in 1985.

Sec. 29.45.045. Reimbursement payments. [Repealed, § 6 ch 70 SLA 1986.]

Sec. 29.45.046. River habitat protection tax credit. (a) Unless prohibited by municipal charter, a municipality may by ordinance provide for a river habitat protection credit to be applied to offset a portion of the property taxes due on land, or an interest in land taxable under this chapter, upon which an improvement has been constructed that aids in

- (1) protecting a river from degradation of fish habitat due to public or private use; or
- (2) restoring riparian fish habitat along or in a river that has been damaged by land use practices.

(b) The amount of a river habitat protection credit shall be based upon a percentage of the verifiable costs of the improvement and may not exceed 50 percent of the total amount of taxes levied upon the land or upon the taxable interest in the land during a single tax year, but the credit may be granted for more than one year. If the credit is granted for more than one year and the land or taxable interest in the land is conveyed, the portion



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

MEMORANDUM

DATE: March 26, 2004
TO: Senator Gary Stevens
FROM: Senator Bert Stedman
SUBJECT: CSSB 267 (CRA)

Attached please find a Work Draft for the conceptual amendment to SB 267 you made during Wednesday's Community & Regional Affairs Committee.

The conceptual amendment as I understood it, was to amend the language so that municipalities have the ability to "opt-out" of the broadened senior property tax exemption this bill institutes. In other words, unless a municipality enacts an ordinance to the contrary, the new exemption would be in effect.

As amended, the language of the bill becomes a bit more confusing, but I believe this CS achieves your intent. I would appreciate your comments or concurrence before passing the bill on to the Finance Committee. Thank you.

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1332D
Kurtz
3/25/04

CS FOR SENATE BILL NO. 267(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR WILKEN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the mandatory exemption from taxation of real property used as the**
2 **primary residence of the widow or widower of a resident 65 years of age or older and the**
3 **widow or widower of a disabled veteran, to eligibility for tax equivalency payments for a**
4 **widow or widower of a resident 65 years of age or older and for a widow or widower of a**
5 **disabled veteran, and to tax exemptions that may be optionally allowed by**
6 **municipalities to those widows and widowers."**

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

8 *** Section 1. AS 29.45.030(e) is amended to read:**

9 (e) The real property owned and occupied as the primary residence and
10 permanent place of abode by a (1) resident 65 years of age or older; (2) disabled
11 veteran; or (3) resident [AT LEAST 60 YEARS OLD] who is the widow or widower
12 of a person who qualified for an exemption under (1) or (2) of this subsection and has
13 not remarried, is exempt from taxation on the first \$150,000 of the assessed value of

WORK DRAFT

WORK DRAFT

23-LS1332D

1 the real property. However, a municipality that levied a tax on real property
2 before January 1, 2005, may by ordinance, instead of providing the exemption in
3 (3) of this subsection, exempt a widow or widower of a person who qualified for
4 an exemption under (1) or (2) of this subsection and who is at least 60 years of
5 age, regardless of whether that individual has remarried. A municipality may, in
6 case of hardship, provide for exemption beyond the first \$150,000 of assessed value in
7 accordance with regulations of the department. Only one exemption may be granted
8 for the same property and, if two or more persons are eligible for an exemption for the
9 same property, the parties shall decide between or among themselves who is to receive
10 the benefit of the exemption. Real property may not be exempted under this
11 subsection if the assessor determines, after notice and hearing to the parties, that the
12 property was conveyed to the applicant primarily for the purpose of obtaining the
13 exemption. The determination of the assessor may be appealed under AS 44.62.560 -
14 44.62.570.

15 * Sec. 2. AS 29.45.040(a) is amended to read:

16 (a) A resident of the state who rents a permanent place of abode is eligible for
17 a tax equivalency payment from the state through the department if the resident is [:]

18 (1) [AT LEAST] 65 years of age or older [OLD];

19 (2) a disabled veteran; or

20 (3) [AT LEAST 60 YEARS OLD AND] the widow or widower of a
21 person who was eligible for payment under (1) or (2) of this subsection and has not
22 remarried.

23 * Sec. 3. AS 29.45.040 is amended by adding a new subsection to read:

24 (g) Notwithstanding (a)(3) of this section, a widow or widower of a person
25 who qualified for a payment under (a)(1) or (2) of this section is eligible for a tax
26 equivalency payment under this section if the widow or widower

27 (1) is at least 60 years of age; and

28 (2) resides in a municipality that levied a tax on real property before
29 January 1, 2005, and that has elected under AS 29.45.030(e) to exempt from property
30 tax the real property owned and occupied as the primary residence and permanent
31 place of abode of a widow or widower of a person who qualified for an exemption

WORK DRAFT

WORK DRAFT

23-LS1332D

1 under AS 29.45.030(e)(1) or (2) and who is at least 60 years of age, regardless of
2 whether that individual has remarried.

3 * Sec. 4. AS 29.45.050(i) is amended to read:

4 (i) A municipality may by ordinance approved by the voters exempt from
5 taxation the assessed value that exceeds \$150,000 of real property owned and
6 occupied as a permanent place of abode by a resident who is

7 (1) 65 years of age or older;

8 (2) a disabled veteran, including a person who was disabled in the line
9 of duty while serving in the Alaska Territorial Guard; [OR]

10 (3) [AT LEAST 60 YEARS OLD AND] a widow or widower of a
11 person who qualified for an exemption under (1) or (2) of this subsection and has not
12 remarried; or

13 (4) a widow or widower of a person who qualified for an
14 exemption under (1) or (2) of this subsection, who is at least 60 years of age,
15 regardless of whether that individual has remarried, and who is entitled to the
16 \$150,000 exemption under AS 29.45.030(e) and municipal law.



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

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Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

*March 24, 2004
1:30 – 3:30 PM
Fahrenkamp 203*

AGENDA

I. Call To Order

II. New Business

SB 267 Widow(er) Property Tax Exemption

Sponsor Testimony:

Senator Gary Wilken, (R-Fairbanks) District E

Invited Testimony:

Wynola Possenti, Fairbanks

Public Testimony

III. Adjourn



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

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Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

TO: Senate Secretary

FROM: Senator Bert K. Stedman

DATE: March 18, 2004

SUBJECT: C&RA Committee Schedule Week of March 22nd, 2004

The following is the schedule for the Senate Committee on Community & Regional Affairs for the week of March 22nd, 2004:

Mar 22 nd	Monday	Fahrenkamp 203	1:30 PM
		NO MEETING SCHEDULED	
Mar 24 th	Wednesday	Fahrenkamp 203	1:30 PM
+*		SB 267 SENIOR WIDOW PROPERTY TAX EXEMPTION	
		BILLS PREVIOUSLY HEARD	
Mar 26 th	Friday	Fahrenkamp 203	1:30 PM
		NO MEETING SCHEDULED	

+ Teleconferenced
* First Hearing
= Previously Heard

GARY WILKEN

SENATOR
Fairbanks

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714

Alaska State Legislature

Senate

During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: 451-5501 (from Fbks)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator.Gary.Wilken@legis.state.ak.us

MEMORANDUM

TO: Senator Bert Stedman, Chairman
Community and Regional Affairs Committee

FROM: Gary Wilken

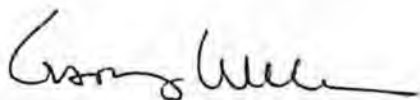
DATE: March 4, 2004

RE: Senate Bill 267, *Senior Widow(er) Property Tax Exemption*

I respectfully request that Senate Bill 267, *Senior Widow(er) Property Tax Exemption*, be scheduled for a hearing before the Senate Community and Regional Affairs Committee

Senate Bill 267 extends the senior or disabled veteran property tax exemption to a widow or widower of an eligible resident. Coping with the loss of a love one is difficult enough without the added burden of increase property taxes. Senate Bill 267 helps make a difficult situation a little bit easier.

Thank you for your cooperation and assistance in scheduling a hearing.



GARY WILKEN

SENATOR
Fairbanks

Interim:
1851 Fox Ave.
Fairbanks, Alaska 99701
Tel: 451-5501 (from Fbks)
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Website: www.garywilken.com
E-Mail: Senator.Gary.Wilken@legis.state.ak.us

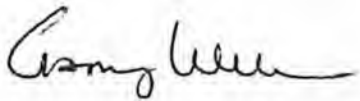
SPONSOR STATEMENT

Senate Bill 267 Senior Widow(er) Property Tax Exemption

Senate Bill 267 extends the senior or disabled veteran property tax exemption to a widow or widower of an eligible resident. Under current law, a resident 65 years of age or older is exempt from property taxation on the first \$150,000 of the assessed value of the person's primary residence. Unfortunately if the eligible resident dies, the remaining spouse is denied the benefit of the previous exemption unless the spouse is at least 60 years old.

Coping with the loss of a love one as well as the accompanying loss of financial security is difficult enough without the added burden of increase property taxes. Senate Bill 267 permits a widow or widower of a qualified applicant to remain eligible for the senior or disabled veteran property tax exemption regardless of age until the individual remarries. This legislation helps make a difficult situation a little bit easier.

As the residence in question is already exempted from taxation, Senate Bill 267 will have negligible impact on a municipality. However, this legislation will have a huge impact on the effected individual. Please join me in endorsing and supporting this legislation.



Sec. 29.45.040. Property tax equivalency payments. (a) A resident of the state who rents a permanent place of abode is eligible for a tax equivalency payment from the state through the department if the resident is:

- (1) at least 65 years old;
- (2) a disabled veteran; or
- (3) at least 60 years old and the widow or widower of a person who was eligible for payment under (1) or (2) of this subsection.

(b) For purposes of determining the amount of a payment to an eligible person, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain a tax equivalency payment the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. The department for good cause shown may waive an applicant's failure to make timely application for a tax equivalency payment and accept the application as if timely filed. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid. A disabled veteran shall submit with the application evidence of the disability rating.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for a tax equivalency payment under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, a tax equivalency payment to an eligible applicant may not be reduced because the spouse is less than 65 years of age or is not a disabled veteran. If all occupants in a residence are eligible for a tax equivalency payment under this section, the occupants shall decide between and among themselves which shall receive payment.

(e) If appropriations are not sufficient to fully fund tax equivalency payments under this section, the amount available shall be distributed pro rata among eligible residents.

(f) In this section "disabled veteran" has the meaning given in AS 29.45.030(i). (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 91 SLA 1985)

Revisor's notes. — The amendment made to (a) of this section by § 3, ch. 91, SLA 1985 was enacted as an amendment to AS 29.73.060(a). Chapter 74, SLA 1985 enacted AS 29.45.040 and repealed AS 29.73.060. The effective date of both 1985 Acts is January 1, 1986. The legislature's intent to amend the

tax equivalency provisions has been recognized by treating the amendment to AS 29.73.060(a) as an amendment to (a) of this section. Subsection (e) of this section was enacted as AS 29.73.060(f) and renumbered in 1985. Subsection (f) of this section was enacted as (e) and renumbered in 1985.

Sec. 29.45.045. Reimbursement payments. *[Repealed, § 6 ch 70 SLA 1986.]*

Sec. 29.45.046. River habitat protection tax credit. (a) Unless prohibited by municipal charter, a municipality may by ordinance provide for a river habitat protection credit to be applied to offset a portion of the property taxes due on land, or an interest in land taxable under this chapter, upon which an improvement has been constructed that aids in

- (1) protecting a river from degradation of fish habitat due to public or private use; or
- (2) restoring riparian fish habitat along or in a river that has been damaged by land use practices.

(b) The amount of a river habitat protection credit shall be based upon a percentage of the verifiable costs of the improvement and may not exceed 50 percent of the total amount of taxes levied upon the land or upon the taxable interest in the land during a single tax year, but the credit may be granted for more than one year. If the credit is granted for more than one year and the land or taxable interest in the land is conveyed, the portion

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/16/04

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/1/04

Community and Regional Affairs Committee considered SENATE BILL NO. 267

SB 267 SENIOR WIDOW(ER) PROPERTY TAX EXEMPTION

"An Act relating to the exemption from taxation of real property used as the primary residence of the widow or widower of a resident 65 years of age or older, and to tax equivalency payments for the widow or widower of a resident 65 years of age or older."

and recommends:

- be replaced with _____ CS SB 267 (CRA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
House Bill:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Revenue	3/24/04			X	
DCED	3/24/04			X	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Thomas D. Wagner</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 267
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Property Tax Exemptions for Senior RDU Revenue Programs & Services
Widow(er)s Component Tax Division
Sponsor Senator Wilken
Requester Sen Community & Regional Affairs Component No. 2476

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 would have no fiscal impact to the operation of the Department of Revenue's Tax Division.

Prepared by: Steve Porter, Deputy Commissioner Phone 465-2302
Division Department of Revenue Date/Time 3/24/04 10:33 AM
Approved by: Steve Porter, Deputy Commissioner Date 3/24/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 267
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Senior Widow(er) Property RDU Comm Assist & Ec Dev (405)
Tax Exemption Component Community Advocacy
Sponsor Senator Wilken Component No. 2703
Senate Community & Regional Affairs

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 bill clarifies the exemption currently authorized for widows and widowers of senior citizens and disabled veterans who receive the property tax exemption. Currently, state law requires the widow or widower to be 60 years of age in order to continue to receive the exemption. This bill removes that requirement and authorizes the exemption to continue until the widow/widower remarries.

This legislation has no direct fiscal impact on the operations of the department.

Prepared by: Gene Kane, Director Phone (907) 269-4580
Division: Community Advocacy Date/Time 3/24/04 8:51 AM
Approved by: Edgar Blatchford, Commissioner Date 3/24/2004
Agency: Department of Community & Economic Development

SB

269

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

Sponsor Statement of Senate Bill 269

"An Act relating to access to the library records of a child by a parent or guardian."

Existing law states parents can have access to their children's library records at public school libraries, but does not specifically state the parents right to have access to their child's records at public libraries. Senate Bill 269 clarifies that parents do have the right access to their child's records at public libraries as well as at public school libraries.

This legislation addresses practical issues by allowing parents to know what materials their child has checked out in both public libraries and public school libraries. As a result, parents can ensure the materials are returned, fines are paid or replacements are purchased.

Senate Bill 269 clarifies current law to ensure parents can find out what books their children are reading in public libraries as well as public school libraries, thus solving logistical and moral problems encountered by families when children's library records are deemed confidential. This legislation allows parents to perform their most important role in life, that of being a parent.

ALASKA STATE LEGISLATURE



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Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

MEMO

DATE: 02/11/2004

To: Members of the Senate Community and Regional Affairs Committee

From: Senator Lyda Green

RE: Senate Bill 269
"An Act relating to access to the library records of a child by a parent or guardian."

The following story was one of many that have been brought to me by constituents and have prompted me to introduce Senate Bill 269:

An eight year old boy put several books from the children's section of the library on hold. Later in the week the library called to inform the boy one of his books was available. The mother, who was taking the message, asked which book, to be able to relay the title to her son. The library informed her that because of privacy laws they would not reveal any information to the mother on the books that her eight year old was checking out.

Subject: Library issue

Date: Wed, 11 Feb 2004 10:52:08 -0900

From: Mary Bixby <MBixby@ci.wasilla.ak.us>

To: "Jacqueline_Tupou@legis.state.ak.us" <Jacqueline_Tupou@legis.state.ak.us>

Mayor Keller got her son, Seth, a library card when he was six or seven years old. She called the Library after he had checked out some books because she knew they must be about due to be returned. She asked the Library for the titles of the books so she and he could locate them but was told that they could not give her that information. The books then became overdue, at which time the Library did give her the titles of the books so they could be returned. The Mayor has since taken away her son's card and all books are checked out on HER card. She would like him to have his own card, but parents have a right to know what books are being checked out so they can teach their children the responsibility of having their own card and getting books returned on time.

Mary Bixby, City of Wasilla

Executive Assistant to

Mayor Dianne M. Keller

ph. 373-9055 fax 373-9096

email: mbixby@ci.wasilla.ak.us

Synopsis of testimony on S.B. 269
B.L. Shepherd on behalf of the Alaska Library Association

Lawmakers need to weigh the benefits of releasing a child's public library record to a parent or guardian vs the potential harm. Interference with a child's access to information could actually lead to harm:

What if a child is seeking information that might help them understand a situation that the parent or family doesn't want to talk about with the child?

What if a child seeks personal assurance or guidance pertaining to physical or psychological abuse and information in books or websites might assist that child in getting out of harm's way?

What if a child seeks understanding of a health condition in him/herself or a relative or friend?

Trust in public officials could be undermined, especially if a teen cannot expect confidentiality with respect to their records. A child's expectations with regard to sharing school records with a parent are different from their expectations for sharing library or other records kept by professionals and public officials.

The release of information from a library record about an address or domicile of a minor could put that child's safety or health in jeopardy.

AS28.15.151(c) DOT can refuse to release a driver's address to a parent, foster parent, or guardian

AS14.03.115 Schools can refuse to release a minor's address if that might threaten the health or safety of the child

Federal Educational Rights and Privacy Act (FERPA) confers rights on the student rather than the parent of a dependent student whenever that student is attending a postsecondary institution.

Children's Online Privacy Protection Act (COPPA) of 1998 recognizes the benefits of parental monitoring of a child's activities but sets the age of "under 13" as the age at which parental consent is required for the collection of personal information.

AS 09.55.590 deals with "Removal of disabilities of minority." Gives a 16 year old the right to petition a superior court for emancipation and confers the rights of adulthood exclusive of voting and alcohol.

The *Library Bill of Rights* is the American Library Association's statement with regard to policy guidelines, and the confidentiality of library records is part of every library's policies:

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

Subject: Alaska Library Association and SB 269
Date: Mon, 09 Feb 2004 20:06:50 -0900
From: "Michael Catoggio" <catoggio@hotmail.com>
To: Senator_Lyda_Green@legis.state.ak.us

Senators Green, Ellis, and Representative Gara -

As President of the Alaska Library Association, I would like to respectfully share my thoughts regarding SB 269 (An Act relating to access to the library records of a child by a parent or guardian) with Senator Green as the sponsor of the bill, and with my two representatives.

Briefly, my concerns about SB 269 can be outlined as follows:

- ** The vast majority of public libraries in the state have automated check-out systems. These systems are designed to delete borrowers information upon the return of books. Public libraries don't keep exhaustive lists of books borrowed by library users over time. Thus, the only "records" a library will have will be of books currently checked out.
- ** Parents and their children can easily obtain information about books that are currently checked out by logging onto their library's web site. A parent simply needs to sit down with a child at their home computer, type in the child's library card, and to obtain a list of the books currently checked out by a child. Or, a parent can encourage their child to simply call their public library, and via the phone, the child can ascertain a list of books currently checked out.
- ** Parents have other quite effective means of checking on the borrowing habits of their children. As an alternative to Senator Green's Sponsor Statement, in which she says that "this legislation allows parents to perform their most important role in life, that of being a parent," I might suggest a more direct approach, which I don't believe will need legislative approval - that talking to one's child.
- ***In short, I feel that this is intrusive and not necessary. Since Ben Franklin established the first public lending library in the United States, we have not had to resort to enacting statutes which give a parent the right to circumvent an opportunity to communicate to their children. I don't see why we need this legislation now.

I believe that the majority of our membership feel the same.

I appreciate this opportunity to express my opinion.

Sincerely,
Michael Catoggio
President, Alaska Library Association

ALASKA STATE LEGISLATURE



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SENATOR LYDA GREEN
SENATE DISTRICT G

RECEIVED
2/1/04

MEMO

DATE: 2/02/2004

To: Senate Community and Regional Affairs
Senator Bert K. Stedman
Miles Baker

From: Senator Lyda Green
Jacqueline Tupou /6600

RE: Request for a hearing for SB269

I am requesting a hearing for SB269, Parental Access to Children's Library Records, in Senate Community and Regional Affairs. Thank you in advance for your time and attention in this matter.

JT
Questions....please feel free to call x3712

Subject: Alaska Library Association and SB 269
Date: Mon, 09 Feb 2004 20:06:50 -0900
From: "Michael Catoggio" <catoggio@hotmail.com>
To: Senator_Lyda_Green@legis.state.ak.us

Senators Green, Ellis, and Representative Gara -

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- ** Parents have other quite effective means of checking on the borrowing habits of their children. As an alternative to Senator Green's Sponsor Statement, in which she says that "this legislation allows parents to perform their most important role in life, that of being a parent," I might suggest a more direct approach, which I don't believe will need legislative approval - that talking to one's child.
- ***In short, I feel that this is intrusive and not necessary. Since Ben Franklin established the first public lending library in the United States, we have not had to resort to enacting statutes which give a parent the right to circumvent an opportunity to communicate to their children. I don't see why we need this legislation now.

I believe that the majority of our membership feel the same.

I appreciate this opportunity to express my opinion.

Sincerely,
Michael Catoggio
President, Alaska Library Association



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

*February 11, 2004
1:30 – 3:30 PM
Fahrenkamp 203*

AGENDA

I. Call To Order

II. New Business

SB 259 Parental Access to Children's Records

Sponsor Testimony:

Senator Lyda Green, Dist G (R-Wasilla)

Additional Written Testimony:

Mayor Dianne Keller, Mayor of Wasilla

Open Public Testimony:

III. Adjourn



ALASKA STATE LEGISLATURE

SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

Senator Bert K. Stedman, Chair

Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

*February 18, 2004
1:30 – 3:30 PM
Fahrenkamp 203*

AGENDA

I. Call To Order

II. Bills Previously Heard

SB 269 Parental Access to Children's Records

Sponsor Senator Lyda Green, Dist G (R-Wasilla)

III. New Business

SB 227 Municipal Initiative Referendum Elections

Sponsor Testimony:

Senator Gary Stevens, Dist R (R-Kodiak)

Public Testimony:

IV. Adjourn

Subject: SB 269 Info

Date: Tue, 17 Feb 2004 12:06:09 -0900

From: Miles Baker <Miles_Baker@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Yvonne Davis <Yvonne_Davis@legis.state.ak.us>,
Mary Jackson <Mary_Jackson@legis.state.ak.us>, Kurt Olson <Kurt_Olson@legis.state.ak.us>,
Shari Paul <Shari_Paul@legis.state.ak.us>, Doug Letch <Doug_Letch@legis.state.ak.us>,
Jesse Kiehl <Jesse_Kiehl@legis.state.ak.us>

Senator Green's office provided the following information as back-up to last week's C&RA Committee hearing on SB 269 - Parental Access to Children's Library records.

It is Senator Stedman's intent to pass this bill out of committee tomorrow afternoon. If you anticipate any additional questions/issues from your bosses on this bill, I'd appreciate a head's up so that we can have this addressed.

Cheers,

Miles

>From Jacqueline Tupou - Here are the ages of various states with laws regarding parental access to library records:

FL - age 15 and under
MI - age 17 and under
SD - age 17 and under
AL - age 18 and under
CO - age 20 and under
GA - age 17 and under
LA - age 17 and under
NM - age 17 and under
OH - age 17 and under
UT - age 17 and under
WV - age 17 and under
WY - age 17 and under



Alaska State Legislature

Senator Steedman	
Rec on:	2/19
Read	Copy
SENATOR	
MILES	
IAN DICK	
Note:	

Please enter into the record my testimony to the ___Senate Community and Regional Affairs _____

committee on _____ SB269 _____, dated 021804 _____.

Just a few quick thoughts on this proposed bill.

Who is to keep the lists and where are the lists to be kept? Are parents expecting a long list of titles that their child/children has/have checked out? If so, that may not be possible. Because the way materials are kept track of electronically, different circulation programs may limit those records to only current transactions. Also, different circulation programs have different capabilities.

If and when this bill is enacted, will parents have the right to request that such lists be kept and maintained. Again, such requests may not be possible because of first amendment rights as they apply to student patrons, limitations of circulation programs, and limitation on librarians time.

Do all libraries in AK have electronic circulation record keeping capability? If the library is using the old fashioned method of signing a card, who will locate the information, how will the information be recorded, etc. How and where will parent expect a list to be kept? Also, how will the librarian know to whom to release the information?

I realize this is bill is intended for public libraries but my comparison would be to my elementary school library in East Stroudsburg, PA. I had 700 students in grades K-4 and 15,000 books in my elementary school library. We checked out material by hand (students signed cards) until 1995. In a single year, there were over 27,000 times books were checked out. This circulation record does not include material read in-house. There was no way that I could locate or maintain a bibliography of titles children read. Also, I had no place to physically keep such records.

My last thought concerns the intent of the bill. Is the bill requesting that librarians act in as parental supervisors. I'm certain that parents/guardians do not want librarians acting in this capacity.

Just some knee jerk thoughts on this proposed bill.

Signed:

Kathleen B. Wartinbee, MILS

Testifier

Representing (optional)

PO BOX 157
Soldotna, AK 99669



State Of Alaska
Legislative Affairs Agency
Kenai LIO
145 Main St Lp, Ste 217
Kenai, AK 99611
907-283-2030

Date: _____ 2 -17-04 _____

Please accept the enclosed original(s) of written testimony for
the ___Senate Community & Regional Affairs_____
teleconference hearing that was scheduled on ___2-18-04_____

A copy of this testimony was transmitted to your committee
via fax on _____2-17-04_____.

Thank You,

_____Kenai LIO_____

THE
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U.S. Department of Education
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- Students
- Parents
- Teachers
- Administrators



GENERAL

Family Educational Rights and Privacy Act (FERPA)

- General
- Legislation
- Regulations
- Policy Guidance

- Adult Education
- Civil Rights
- Elementary & Secondary Education
- Grants & Contracts
- Higher Education
- Research & Statistics
- Special Education & Rehabilitative Services
- Vocational Education

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

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Related Topics

No Related Topics



-HEAD-

Sec. 1232g. Family educational and privacy rights

-STATUTE-

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

Alaska Library Association
B.L. Shepherd, Government Relations Chair
February 18, 2004

It appears that the proposed amendment to AS 40.25.140 is intended to solve two problems:

- parents needing to pay fines for materials checked out by their children but not being aware of the items on loan
- parents wanting to pick up library materials for their children who cannot be present at the time of checkout

Last week, AkLA presented reasons for opposing the proposed wording of the amendment.

We have examined the statutes of **49** states with regard to the confidentiality of library records.

Only **8** states allow parental inspection of both school and public library records of their minor children: AL LA UT GA WV OH WY SD

1 state, in addition to AK, allows parental inspection of school library records of minor children. NM

40 states protect the confidentiality of library records for all users except:

23 states specify that a library patron may give permission for the release of his/her records;

6 states specify that a library may make public the information pertaining to overdue materials and **10** others specify such records may be disclosed "for the orderly management of the library" – probably referring to the status of overdue, lost, and damaged materials

In only **2** states, do the statutes specifically include academic and state libraries with parental rights.

In summary, approximately **85%** of states provide for the confidentiality of the library records of minors. And some of these (e.g. SC, AR) even specify that school library records are included among those records that are protected.

AkLA leadership has discussed the various issues involved – parental rights, children's rights, library staff rights, public property protection.

We agree that

- information in library records pertaining to overdue, damaged, or lost materials should be made available to parents, **provided that personal identifying information about the child is not released.**

- reserved materials for a child under 16 years of age may be released to a parent or guardian **provided that signed written consent of the child is presented at the time the release of materials is sought.**

These two provisions would:

- 1) permit parents to keep track of and pick up materials checked out by their children
- 2) protect minors who are responsible borrowers of library property and may need or want **privacy** regarding the library materials they use
- 3) protect personally identifiable information (e.g. domicile, telephone number) of a minor that should not be revealed without the express permission of that child (e.g. to a noncustodial parent who does not have legal visitation rights)
- 3) protect library staff who would have written proof of authorization to release materials to a parent in the event that a counterclaim is made

We also recommend eliminating mention of state and University of Alaska libraries in part (c) of the amendment. The *Federal Educational Rights and Privacy Act* confers privacy rights for records to the "student attending an institution of postsecondary education" and not his/her parents, even if that student is a dependent. So, an academic library could not release circulation records, except upon court order.

In summary:

We hope you will consider altering Bill 269 to include the provisions that AkLA proposes regarding

- overdue and lost materials records without personal identifying information
- release of materials with signed written consent of the child

and drop the reference to state and University library records.

Thank you for your attention.

TITLE 41. STATE GOVERNMENT
CHAPTER 8. ALABAMA PUBLIC LIBRARY SERVICE
ARTICLE 1 GENERAL PROVISIONS

§ 41-8-9. Definitions

As used in Section 41-8-10, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons utilizing particular books and any other library materials in any medium or format.

§ 41-8-10. Confidentiality of registration records

Registration, etc., records of public libraries to be confidential; right of parents to inspect records.

It is recognized that public library use by an individual should be of confidential nature. Any other provision of general, special or local law, rule or regulation to the contrary notwithstanding, the registration and circulation records and information concerning the use of the public, public school, college and university libraries of this state shall be confidential. Registration and circulation records shall not be open for inspection by, or otherwise available to, any agency or individual except for the following entities: (a) the library which manages the records; (b) the state education department for a library under its jurisdiction when it is necessary to assure the proper operation of such library; or (c) the state Public Library Service for a library under its jurisdiction when it is necessary to assure the proper operations of such library. Aggregate statistics shown from registration and circulation records, with all personal identification removed, may be released or used by a library for research and planning purposes. Provided however, any parent of a minor child shall have the right to inspect the registration and circulation records of any school or public library that pertain to his or her child.

TITLE 24. EVIDENCE

CHAPTER 9. WITNESSES GENERALLY

ARTICLE 2. PRIVILEGE

PART 2. MEDICAL INFORMATION

O.C.G. § 24-9-46

§ 24-9-46. Confidential nature of certain library records

(a) Circulation and similar records of a library which identify the user of library materials shall not be public records but shall be confidential and may not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized disclosure of materials made confidential by that subsection (a) shall not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this Code section shall not be liable therefor.

02/03

LOUISIANA STATUTES

LOUISIANA REVISED STATUTES

TITLE 44. PUBLIC RECORDS AND RECORDERS

CHAPTER 1. PUBLIC RECORDS

PART I. SCOPE

La. R.S. 44:13

§ 13 Registration records and other records of use maintained by libraries

A. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any library which is in whole or in part supported by public funds, including the records of public, academic, school, and special libraries, and the State Library of Louisiana, indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group of individuals may not be disclosed except to a parent or custodian of a minor child seeking access to that child's records, to persons acting within the scope of their duties in the administration of the library, to persons authorized in writing by the individual or group of individuals to inspect such records, or by order of a court of law.

B. Notwithstanding any provisions of this Chapter or any other law to the contrary, records of any such library which are maintained for purposes of registration or for determining eligibility for the use of library services may not be disclosed except as provided in Subsection A of this Section.

C. No provision of this Section shall be so construed as to prohibit or hinder any library or any business office operating jointly with a library from collecting overdue books, documents, films, or other items and/or materials owned or otherwise belonging to such library, nor shall any provision of this Section be so construed as to prohibit or hinder any such library or business office from collecting fines on such overdue books, documents, films, or other items and/or materials.

D. No provision of this section shall be so construed as to prohibit or hinder any library or librarian from providing information to appropriate law enforcement officers investigating criminal activity in the library witnessed by an employee or patron of the library and reported by the administrative librarian to the appropriate law enforcement officials.

○

- (1) The term "criminal activity in the library", as used in this subsection, shall mean an activity which constitutes a crime, or otherwise constitutes an offense or violation of any law or ordinance, occurring:
 - (A) within any library building,
 - (B) upon any library property, OR
 - (C) near a library and the proximity of such activity to a library or library property constitutes an element of the offense.
- (2) The term "information", as used in this subsection shall include but not be limited to electronic data files, security surveillance video tapes, or other records or materials which may constitute evidence which would assist law enforcement officers in identifying the individual or group of individuals who may have committed criminal activity in the library.

WEST VIRGINIA CODE

CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS;
MONUMENTS AND MEMORIALS; ROSTER OF SERVICEMEN; EDUCATIONAL BROADCASTING
AUTHORITY

ARTICLE 1. PUBLIC LIBRARIES

W. Va. Code § 10-1-22

§ 10-1-22. Confidential nature of certain library records

(a) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this section or any unauthorized disclosure of materials made confidential by that subsection (a) does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this section is not liable therefor.

02/03

OHIO REVISED CODE
TITLE I [1] STATE GOVERNMENT
CHAPTER 149: DOCUMENTS, REPORTS, AND RECORDS
[RECORDS COMMISSIONS]
ORC Ann. 149.432

§ 149.432 Release of library record or patron information.

(A) As used in this section:

(1) "Library" means a library that is open to the public, including any of the following:

(a) A library that is maintained and regulated under section 715.13 of the Revised Code;

(b) A library that is created, maintained, and regulated under Chapter 3375. of the Revised Code;

(c) A library that is created and maintained by a public or private school, college, university, or other educational institution;

(d) A library that is created and maintained by a historical or charitable organization, institution, association, or society.

"Library" includes the members of the governing body and the employees of a library.

(2) "Library record" means a record in any form that is maintained by a library and that contains any of the following types of information:

(a) Information that the library requires an individual to provide in order to be eligible to use library services or borrow materials;

(b) Information that identifies an individual as having requested or obtained specific materials or materials on a particular subject;

(c) Information that is provided by an individual to assist a library staff member to answer a specific question or provide information on a particular subject.

"Library record" does not include information that does not identify any individual and that is retained for the purpose of studying or evaluating the use of a library and its materials and services.

(3) Subject to division (B)(5) of this section, "patron information" means personally identifiable information about an individual who has used any library service or borrowed any library materials.

(4) "Internet" has the same meaning as in section 3517.106 [3517.10.6] of the Revised Code.

(B) A library shall not release any library record or disclose any patron information except in the following situations:

(1) If a library record or patron information pertaining to a minor child is requested from a library by the minor child's parent, guardian, or custodian, the library shall make that record or information available to the parent, guardian, or custodian in accordance with division (B) of section 149.43 of the Revised Code.

(2) Library records or patron information shall be released in the following situations:

UTAH CODE
TITLE 63. STATE AFFAIRS IN GENERAL

CHAPTER 2. GOVERNMENT RECORDS ACCESS AND MANAGEMENT

§ 63-2-302. Private records

(1) The following records are private:

<...>

(c) records of publicly funded libraries that when examined alone or with other records identify a patron.

§ 63-2-202. Access to private, controlled, and protected documents.

(1) Upon request, a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency upon submission of a release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to court order as provided in Subsection (7) or a legislative subpoena as provided in Title 36, Chapter 14.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

WYOMING STATUTES

TITLE 16. CITY, COUNTY, STATE AND LOCAL POWERS

CHAPTER 4. UNIFORM MUNICIPAL FISCAL PROCEDURES; PUBLIC RECORDS, DOCUMENTS AND MEETINGS

ARTICLE 2. PUBLIC RECORDS

Wyo. Stat. § 16-4-203

§ 16-4-203. Right of inspection; grounds for denial; access of news media; order permitting or restricting disclosure; exception

(a) The custodian of any public records shall allow any person the right of inspection of the records or any portion thereof except on one (1) or more of the following grounds or as provided in subsection (b) or (d) of this section:

- (i) The inspection would be contrary to any state statute;
- (ii) The inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law; or
- (iii) The inspection is prohibited by rules promulgated by the supreme court or by the order of any court of record.

(b) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(i) Records of investigations conducted by, or of intelligence information or security procedures of, any sheriff, county attorney, city attorney, the attorney general, the state auditor, police department or any investigatory files compiled for any other law enforcement or prosecution purposes;

(ii) Test questions, scoring keys and other examination data pertaining to administration of a licensing examination and examination for employment or academic examination. Written promotional examinations and the scores or results thereof shall be available for inspection, but not copying or reproduction, by the person in interest after the examination has been conducted and graded;

(iii) The specific details of bona fide research projects being conducted by a state institution;

(iv) Except as otherwise provided by Wyoming statutes or for the owner of the property, the contents of real estate appraisals made for the state or a political subdivision thereof, relative to the acquisition of property or any interest in property for public use, until such time as title of the property or property interest has passed to the state or political subdivision. The contents of the appraisal shall be available to the owner of the property or property interest at any time;

(v) Interagency or intraagency memoranda or letters which would not be available by law to a private party in litigation with the agency.

(c) If the right of inspection of any record falling within any of the classifications listed in this section is allowed to any officer or employee of any newspaper, radio station, television station or other person or agency in the business of public dissemination of news or current events, it may be allowed to all news media.

(d) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

<...>

over

Wyoming

(ix) Library circulation and registration records except as required for administration of the library or except as requested by a custodial parent or guardian to inspect the records of his minor child.

(e) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial. The statement shall cite the law or regulation under which access is denied and shall be furnished to the applicant.

(f) Any person denied the right to inspect any record covered by this act may apply to the district court of the district wherein the record is found for any order directing the custodian of the record to show cause why he should not permit the inspection of the record.

(g) If, in the opinion of the official custodian of any public record, disclosure of the contents of the record would do substantial injury to the public interest, notwithstanding the fact that the record might otherwise be available to public inspection, he may apply to the district court of the district in which the record is located for an order permitting him to restrict disclosure. After hearing, the court may issue an order upon a finding that disclosure would cause substantial injury to the public interest. The person seeking permission to examine the record shall have notice of the hearing served upon him in the manner provided for service of process by the Wyoming Rules of Civil Procedure and has the right to appear and be heard.

(h) Notwithstanding any other provision of this section, the following applies to the Wyoming natural diversity database located at the University of Wyoming and any report prepared by the custodian from that database:

(i) The custodian may charge a reasonable fee for searching the database and preparing a report from that database information. The interpretation of the database in a report shall not contain recommendations for restrictions on any public or private land use;

(ii) The custodian shall allow the inspection of all records in the database at a level of spatial precision equal to the township, but at no more precise level;

(iii) Research reports prepared by the custodian funded completely from nonstate sources are subject to paragraph (b)(iii) of this section;

(iv) Any record contained in the database pertaining to private land shall not be released by the University of Wyoming without the prior written consent of the landowner. Nothing in this paragraph prohibits the release of any information which would otherwise be available from any other information source available to the public if the original source is cited.

FLORIDA STATUTES

TITLE XVIII PUBLIC LANDS AND PROPERTY

CHAPTER 257 PUBLIC LIBRARIES AND STATE ARCHIVES

Fla. Stat. § 257.261

257.261 Library registration and circulation records.--

(1) All registration and circulation records of every public library, except statistical reports of registration and circulation, are confidential and exempt from the provisions of s. 119.07(1) and from s. 24(a) of Art. I of the State Constitution.

(2) As used in this section, the term "registration records" includes any information that a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information that identifies the patrons who borrow particular books and other materials.

(3) (a) Except in accordance with a proper judicial order, a person may not make known in any manner any information contained in records made confidential and exempt by this section, except as otherwise provided in this section.

(b) A library or any business operating jointly with the library may, only for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials owned or otherwise belonging to the library, disclose information made confidential and exempt by this section to the following:

1. The library patron named in the records;
2. In the case of a library patron less than 16 years of age, the parent or guardian of that patron named in the records;
3. Any entity that collects fines on behalf of a library, unless the patron is less than 16 years of age, in which case only information identifying the patron's parent or guardian may be released;
4. Municipal or county law enforcement officials, unless the patron is 16 years of age, in which case only information identifying the patron's parent or guardian may be released; or
5. Judicial officials.

(4) Any person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

NEW MEXICO

CHAPTER 18. LIBRARIES AND MUSEUMS

ARTICLE 9. LIBRARY PRIVACY

N.M. Stat. Ann. § 18-9-1

§ 18-9-1. Short title

This act [18-9-1 to 18-9-6 NMSA 1978] may be cited as the "Library Privacy Act".

§ 18-9-2. Purpose

The purpose of the Library Privacy Act [18-9-1 to 18-9-6 NMSA 1978] is to preserve the intellectual freedom guaranteed by Sections 4 and 17 of Article 2 of the constitution of New Mexico by providing privacy for users of the public libraries of the state with respect to the library materials that they wish to use.

§ 18-9-3. Definitions

As used in the Library Privacy Act [18-9-1 to 18-9-6 NMSA 1978]:

A. "library" includes any library receiving public funds, any library that is a state agency and any library established by the state, an instrumentality of the state, a local government, district or authority, whether or not that library is regularly open to the public; and

B. "patron record" means any document, record or other method of storing information retained by a library that identifies, or when combined with other available information identifies, a person as a patron of the library or that indicates use or request of materials from the library. "Patron record" includes patron registration information and circulation information that identifies specific patrons.

§ 18-9-4. Release of patron records prohibited

Patron records shall not be disclosed or released to any person not a member of the library staff in the performance of his duties, except upon written consent of the person identified in the record, or except upon court order issued to the library. The library shall have the right to be represented by counsel at any hearing on disclosure or release of its patron records.

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§ 18-9-5. Exceptions

The prohibition on the release or disclosure of patron records in Section 4 [18-9-4 NMSA 1978] of the Library Privacy Act shall not apply to overdue notices or to the release or disclosure by school libraries to the legal guardian of the patron records of unemancipated minors or legally incapacitated persons.

HISTORY: Laws 1989, ch. 151, § 5.

§ 18-9-6. Violations; civil liability

Any person who violates Section 4 [18-9-4 NMSA 1978] of the Library Privacy Act shall be subject to civil liability to the person identified in the released records for damages and costs of the action as determined by the court.

02/03

SOUTH DAKOTA CODIFIED LAWS

§ 14-2-51. Confidential library records

All public library records containing personally identifiable information are confidential. Any information contained in public library records may not be released except by court order or upon request of a parent of a child who is under eighteen years of age. As used in this section, "personally identifiable" means any information a library maintains that would identify a patron. Acts by library officers or employees in maintaining a check out system are not violations of this section.

02/03

OKLAHOMA STATUTES

TITLE 65. PUBLIC LIBRARIES

CHAPTER A. OKLAHOMA LIBRARY CODE

ARTICLE 1. LEGISLATIVE INTENT AND GENERAL PROVISIONS

Okl. St. § 65-1-105

§ 65-1-105. Disclosure of records

A. Any library which is in whole or in part supported by public funds including but not limited to public, academic, school or special libraries, and having records indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group shall not disclose such records to any person except to:

1. Persons acting within the scope of their duties in the administration of the library;
2. Persons authorized to inspect such records, in writing, by the individual or group; or
3. By order of a court of law.

B. The requirements of this section shall not prohibit middle and elementary school libraries from maintaining a system of records that identifies the individual or group to whom library materials have been loaned even if such system permits a determination, independent of any disclosure of such information by the library, that documents or materials have been loaned to an individual or group.

02/03

MINNESOTA STATUTES

Data Practices

CHAPTER 13 GOVERNMENT DATA PRACTICES

LIBRARY DATA

Minn. Stat. § 13.40

13.40 Library and historical data

Subdivision 1. Records subject to this chapter. (a) For purposes of this section, "historical records repository" means an archives or manuscript repository operated by any state agency, statewide system, or political subdivision whose purpose is to collect and maintain data to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

(b) Data collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. Private data; library borrowers. (a) Except as provided in paragraph (b), the following data maintained by a library are private data on individuals and may not be disclosed for other than library purposes except pursuant to a court order:

(1) data that link a library patron's name with materials requested or borrowed by the patron or that link a patron's name with a specific subject about which the patron has requested information or materials; or

(2) data in applications for borrower cards, other than the name of the borrower.

(b) A library may release reserved materials to a family member or other person who resides with a library patron and who is picking up the material on behalf of the patron. A patron may request that reserved materials be released only to the patron.

Subd. 3. Nongovernmental data. Data held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, statewide system, or political subdivision are not government data. These data are accessible to the public unless:

(1) the data are contributed by private persons under an agreement that restricts access, to the extent of any lawful limitation; or

(2) access would significantly endanger the physical or organizational integrity of the data.

CODE OF LAWS OF SOUTH CAROLINA

TITLE 60. LIBRARIES, ARCHIVES, MUSEUMS AND ARTS

CHAPTER 4. CONFIDENTIAL LIBRARY RECORDS

§ 60-4-10. Records identifying library patrons as confidential information; disclosure.

included } Records related to registration and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, are confidential information.

Records which by themselves or when examined with other public records would reveal the identity of the library patron checking out or requesting an item from the library or using other library services are confidential information.

The confidential records do not include nonidentifying administrative and statistical reports of registration and circulation.

The confidential records may not be disclosed except to persons acting within the scope of their duties in the administration of the library or library system or persons authorized by the library patron to inspect his records, or in accordance with proper judicial order upon a finding that the disclosure of the records is necessary to protect public safety, to prosecute a crime, or upon showing of good cause before the presiding Judge in a civil matter.

§ 60-4-20. Definitions.

As used in this chapter, the term "registration records" includes any information which a library requires a patron to provide in order to become eligible to borrow books and other materials, and the term "circulation records" includes all information which identifies the patrons borrowing particular books and other materials.

§ 60-4-30. Penalties.

Any person violating the provisions of § 60-4-10 must upon conviction be fined not more than five hundred dollars or imprisoned for not more than thirty days for the first offense, must be fined not more than one thousand dollars or imprisoned for not more than sixty days for the second offense, and must be fined not more than two thousand dollars or imprisoned for not more than ninety days for the third or subsequent offense.

TITLE 30. PUBLIC RECORDS

CHAPTER 4. FREEDOM OF INFORMATION ACT

§ 30-4-10. Short Title

This chapter shall be known and cited as the "Freedom of Information Act".

§ 30-4-20. Definitions

(a) "Public body" means any department of the State, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds,

TITLE 13. LIBRARIES, ARCHIVES, AND CULTURAL RESOURCES

CHAPTER 2. LIBRARIES

SUBCHAPTER 7. CONFIDENTIALITY OF PATRONS' RECORDS

A.C.A. § 13-2-701

§ 13-2-701. Definitions

(a) "Patron" means any individual who requests, uses, or receives services, books or other materials from a library.

(b) "Confidential library records" means documents or information in any format retained in a library that identify a patron as having requested, used, or obtained specific materials, including, but not limited to, circulation of library books, materials, computer database searches, interlibrary loan transactions, reference queries, patent searches, requests for photocopies of library materials, title reserve requests, or the use of audiovisual materials, films, or records.

HISTORY: Acts 1989, No. 903, § 1.

§ 13-2-702. Penalty

(a) Any person who knowingly violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

(b) No liability shall result from any lawful disclosure permitted by this subchapter.

(c) No action may be brought under this subchapter unless such action is begun within two (2) years from the date of the act complained of or the date of discovery.

HISTORY: Acts 1989, No. 903, § 2.

§ 13-2-703. Disclosure prohibited

protected
(a) Library records which contain names or other personally identifying details regarding the patrons of public, school, academic, and special libraries and library systems supported in whole or in part by public funds shall be confidential and shall not be disclosed except as permitted by this subchapter.

(b) Public libraries shall use an automated or Gaylord-type circulation system that does not identify a patron with circulated materials after materials are returned.

HISTORY: Acts 1989, No. 903, § 2.

§ 13-2-704. Disclosure permitted

A library may disclose personally identifiable information concerning any patron:

(1) To the patron;

(2) To any person with the informed, written consent of the patron given at the time the disclosure is sought; or

State Statutes or Opinions
Addressing Confidentiality of Library Records
Reviewed and Updated May 2001

<u>State and Code</u>	<u>Exceptions</u>	<u>Types of Libraries</u>	<u>Category</u>
Alabama §41-8-10	D G N O (note 1)	C	confidential
Alaska §09.25.140	A D Q (note 2)	D	confidential
Arizona §41-1354	A B C F (note 2)	B	private
Arkansas §§13-2-701 to 13-2-706	C P O	G	confidential
California §6254j	E	M	exempt from open records law
Colorado § 24-90-119	A B C F (note #2)	B	private
Connecticut § 11-25		A	confidential
Delaware 29 DCA §10002(d)(12)		A	exempt from open records law
District of Columbia § 37-106.2	A C F (note #3)	E	confidential
Florida §257.261	D A O (note #1) 02/04	A	confidential
Georgia §24-9-46	A C D G (note #2)	M	confidential
Hawaii Attorney General's Opinion			exempt from open records law
Idaho §9-340E	(note #2)	M	exempt from open records law
Illinois 75 ILCS 70/1 to 75 ILCS 70/ 2	A O (note #1)	F	confidential

Indiana 5-14-3-4(16)	A B (note #1)	M	exempt from open records law
Iowa §22.7(13)	K	M	exempt from open records law
Kentucky Attorney General Opinion			exempt from open record law
Kansas §45-221(23)	B (note #1)	M	exempt from open records law
Louisiana §44:13	A C D G (note #1)	B G	confidential
Maine 27 MRS §121	A C	H	confidential
Maryland §23-107, §10-616(e) & (f)	B	C	exempt from open records law
Massachusetts Ch. 78, §7	(note #1)	A	exempt from open records law
Michigan §397.601	C H O	I	confidential (note #13)
Minnesota §13.40	A	A	private
Mississippi §39-3-365 to 39-3-369	A C E O	M	confidential
Missouri §§182.815 to 182.817	A C I O (note #1)	I	exempt from open records law
Montana §§22-1-1101 to 22-1-1103	A C E J O (note #1)	I	confidential
Nebraska 84-712.05	L (note 2)	B	confidential
Nevada §239.013	A I	J	exempt from open records law
New Hampshire RSA 91-A:5(iv) and	A B C F O	M	exempt from open records law

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New Jersey 18A:73-43.2	A C F (note #1)	K	confidential
New Mexico §18-9-1	A C G Q (note #1, 5)	N	private
New York §4509	A B C F (note #4)	C	confidential
North Carolina 125-19	A B C F O	I	confidential
North Dakota §40-38-12	A	B	exempt from open records law
Ohio §149.43.2	A C D G O. (note #14)	P	confidential
Oklahoma 65 OSA §1-105	A C G (note #6)	B G	exempt from open records law
Oregon §192.502(22)		M	exempt from open records law
Pennsylvania 24 PSA §4428	A (note 7)	D	confidential
Rhode Island §38-2-2(21)	(note #2)	A M	exempt from open records law
South Carolina 60-4-10	A C G I O (notes 1, 2, 11)	A B	confidential
South Dakota 14-2-51	A D G (note #1)	A B	confidential
Tennessee 10 TCA 8-101	A C E O (note #2)	I	confidential
Texas §552.124	A B F I	B	confidential; exempt from open records law

Utah §63-2-302	(note #1)	B	private
Vermont 1 VSA §317(b)(19)	(note #1)	O	exempt from open records law
Virginia §2.1-342.01(A)(10)	(note #1)	M	exempt from open records law
Washington 42.17.310(1)(L)	O H (notes #2, 9)	M	exempt from open records law
West Virginia §10-1-22	A C F G (note #12)	A	confidential
Wisconsin §43.30	A C G (note #10)	B	confidential
Wyoming §16-4-203(d)(ix)	B D G	A	exempt from open records law

MISCELLANEOUS NOTES

1. Registration records, or information which libraries require from a patron who wishes to borrow materials, also are confidential, even if they do not connect a patron with specific materials.
2. Records that identify a patron as "using the library" are confidential
3. The District of Columbia has an established procedure for the defense of confidentiality of library records. The patron whose records have been requested may file a motion in the Superior court of the District of Columbia requesting that the records remain confidential. Once the library receives a subpoena for library records, it must send a copy to all affected library patrons, including a statement of the patron's rights and the reasons a court order to disclose the records might be granted.
4. In New York, confidential records include, but are not limited to, "records related to the circulation of library material, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio visual materials, films, or records.
5. In New Mexico, the library has the right to be represented by counsel at any hearing on disclosure of patron records.
6. In Oklahoma, middle and elementary school libraries are not prohibited from maintaining a system of records identifying individuals or groups to whom materials have been loaned, even if such a system permits a determination, independent of disclosure, that such materials or documents have been loaned to any individual or group.
7. In Pennsylvania, records may be released only by court order in a criminal case.
8. In Virginia, the statute reads that records "may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law."
9. In Washington State, the statute permits disclosure if a court, after a hearing with notice to every party in interest, determines that the exemption of the record "is clearly unnecessary to protect any individual's right of privacy or any vital government function."
10. In Wisconsin, a library may disclose an individual's identity to another library for purposes of borrowing materials if the library to whom the information is disclosed meets one of three conditions.
11. South Carolina's statute requires only "good cause" for disclosure in civil matters.
12. West Virginia's statute reads "ordinary course of business."
13. Michigan's statute has been amended to add a section mandating that any library offering Internet access must provide at least one terminal, blocking access to obscene, sexually explicit, or harmful to minors material, and implement a policy to prevent minors from accessing obscene, sexually explicit, or harmful to minors materials.
14. Ohio's statute permits release of information to a law enforcement officer who is acting in the scope of the officer's law enforcement duties and who is investigating a matter involving public safety in exigent circumstances. It also permits the release of records documenting improper Internet usage, as long as patron information is removed from those records.

EXCEPTIONS TO NON-DISCLOSURE

- A - pursuant to a subpoena or court order
- B - otherwise required by law
- C -- by the written consent of the patron
- D -- requested by the parent or guardian of minor child
- E -- records regarding borrower fines and overdue notices
- F -- subject to the reasonable or proper operation of the library
- G - to persons acting within the scope of their duties in the administration of the library
- H - court order and patron given notice of the request and the opportunity to act on it
- I - necessary to protect public safety or to prosecute a crime
- J - merits of public disclosure clearly exceed the demand for individual privacy
- K - released to a criminal justice agency only pursuant to investigation of a particular person or organization suspected of committing a known crime, or released upon judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling
- L - publicly disclosed in open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties
- M - the public interest requires disclosure in the particular interest
- N - state education department or state public library service for a library under its jurisdiction when it is necessary to assure the proper operation of the library
- O - statistics with all personal identification removed may be used for research or planning purposes or studying circulation in general
- P - to a law enforcement agency or civil court pursuant to a search warrant.
- Q - by school libraries to a parent or legal guardian of an emancipated minor child or legally incapacitated person