

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON FISHERIES**

March 19, 2001

5:08 p.m.

**MEMBERS PRESENT**

Representative Gary Stevens, Co-Chair  
Representative Peggy Wilson, Co-Chair  
Representative Drew Scalzi  
Representative Fred Dyson  
Representative John Coghill  
Representative Mary Kapsner  
Representative Beth Kerttula

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 154

"An Act relating to security for the payment of fishery business taxes and to payment of estimated fisheries resource landing taxes and penalties."

- MOVED CSHB 154(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 131

"An Act relating to standards for forest resources and practices; and providing for an effective date."

- MOVED HB 131 OUT OF COMMITTEE

TERM EXPIRATION DATE FOR BRUCE TWOMLEY, COMMISSIONER, COMMERCIAL FISHERIES ENTRY COMMISSION

- CHANGED FROM 7/01/04 TO 3/01/05

LETTER TO THE DEPARTMENT OF PUBLIC SAFETY RE: POACHING

- ADOPTED NEW LANGUAGE

HOUSE BILL NO. 148

"An Act establishing a moratorium on the foreclosure of certain loans; making the moratorium retroactive; requiring the reversal

of certain foreclosures and the return of certain property interests; and providing for an effective date."

- BILL HEARING POSTPONED

**PREVIOUS ACTION**

BILL: HB 154

SHORT TITLE:COLLECTION OF FISHERY BUSINESS TAXES

SPONSOR(S): REPRESENTATIVE(S)SCALZI

Jrn-Date	Jrn-Page		Action
02/28/01	0462	(H)	READ THE FIRST TIME - REFERRALS
02/28/01	0462	(H)	FSH, RES, FIN
03/12/01		(H)	FSH AT 5:00 PM CAPITOL 124
03/12/01		(H)	Heard & Held MINUTE(FSH)
03/19/01		(H)	FSH AT 5:00 PM CAPITOL

BILL: HB 131

SHORT TITLE:FOREST RESOURCES & PRACTICES STANDARDS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/16/01	0346	(H)	READ THE FIRST TIME - REFERRALS
02/16/01	0346	(H)	FSH, RES
02/16/01	0346	(H)	FN1: ZERO(DNR)
02/16/01	0346	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/19/01		(H)	FSH AT 5:00 PM CAPITOL 124

**WITNESS REGISTER**

CHUCK HARLAMERT, Juneau Section Chief

Tax Division

Department of Revenue

PO Box 110420

Juneau, Alaska 99811

POSITION STATEMENT: Testified on HB 154 and answered questions.

KEVIN HOGAN, President

Auction Block

PO Box 2228

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of HB 154.

JEFF JAHNKE, State Forester  
Division of Forestry  
Department of Natural Resources;  
Presiding Officer  
Board of Forestry  
400 Willoughby  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified on HB 131.

MARTHA "MARTY" WELBOURN-FREEMAN  
Forest Resources Program Manager  
Division of Forestry  
Department of Natural Resources  
550 West 7th Avenue  
Anchorage, Alaska 99501  
POSITION STATEMENT: Testified on HB 131.

JILL KLEIN, Project Manager  
Yukon River Drainage Fisheries Association  
1120 G Street  
Anchorage, Alaska 99501  
POSITION STATEMENT: Testified in support of HB 131.

NANCY FRESCO  
Northern Alaska Environmental Center  
281 Driveway Street  
Fairbanks, Alaska 99701  
POSITION STATEMENT: Testified in support of HB 131.

CHRIS STARK  
PO Box 80543  
Fairbanks, Alaska 99708  
POSITION STATEMENT: Testified in support of HB 131.

LARRY SMITH  
1520 Lakeshore Drive  
Homer, Alaska 99603  
POSITION STATEMENT: Testified on behalf of himself in support  
of HB 131.

JERRY McCUNE  
United Fishermen of Alaska  
(No address provided)  
POSITION STATEMENT: Testified on HB 131 and in the discussion  
of the letter to the Department of Public Safety.

EDWARD C. FURMAN

PO Box 2367

Cordova, Alaska 99574

POSITION STATEMENT: Testified on behalf of the fishermen of Cordova on HB 131.

### **ACTION NARRATIVE**

TAPE 01-12, SIDE A

Number 0001

CO-CHAIR PEGGY WILSON called the House Special Committee on Fisheries meeting to order at 5:08 p.m. Members present at the call to order were Representatives Coghill, Scalzi, Kerttula, Stevens, and Wilson. Representatives Dyson and Kapsner arrived as the meeting was in progress.

### HB 154-COLLECTION OF FISHERY BUSINESS TAXES

CO-CHAIR WILSON announced the first order of business would be HOUSE BILL NO. 154, "An Act relating to security for the payment of fishery business taxes and to payment of estimated fisheries resource landing taxes and penalties." [Before the committee, adopted as a work draft on 3/12/01, was a proposed committee substitute (CS), version 22-LS0638\F, Utermohle, 3/9/01.]

Number 0133

REPRESENTATIVE SCALZI, sponsor of the bill, referred to his testimony from the week before and said this bill is not on a "fast track," but that he wanted the House Special Committee on Fisheries to discuss it. He said he also wanted to hear input from constituents on any negative aspects of the bill.

REPRESENTATIVE SCALZI went on to say that since the last meeting, he has spoken with the Department of Revenue, which suggested an amendment [later adopted as Amendment 1] that read:

\*Sec.2. AS 43.77.020 is amended to read as follows:

(a) A person subject to the tax under this chapter shall file a return stating the value of fishery resources landed in the state that are subject to the tax, the point of landing of the fishery resource, and other information the department requires by regulation.

(b) The return shall be made on the basis of the calendar year [TO THE DEPARTMENT AT JUNEAU] and is due before April 1 after the close of the calendar year, and [THE] any unpaid tax shall be paid with the return.

(c) The department may, under regulations it adopts, grant a reasonable extension of time for the filing. A grant of an extension of time for filing does not extend the time for payment of the tax.

(d) A person subject to tax under this chapter shall make quarterly payments of the tax estimated to be due for the year, as required under regulations adopted by the department. A taxpayer will be subject to an estimated tax penalty, determined by applying the interest rate specified in AS 43.05.225 to the underpayment for each quarter, unless the taxpayer makes estimated tax payments in equal installments that total either

(1) at least 90 percent of the taxpayer's tax liability under this chapter for the tax year, or

(2) at least 100 percent of the taxpayer's tax liability under this chapter for the prior tax year.

REPRESENTATIVE SCALZI informed the committee that Chuck Harlamert from the Department of Revenue would explain the purpose of this amendment. It doesn't affect the original intent of the bill "that fresh-fish sales can operate under a different taxing structure than a processor for purposes of collection of taxation." Rather, it deals with statutory changes that are currently in regulation.

Number 0296

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Department of Revenue, explained that Amendment 1 provides cleaner, more common language to reach the intent in the original bill, which is to require estimated tax payments for landing tax. This amendment also provides a "safe harbor" for how much estimated tax taxpayers must pay in order to avoid penalties. There are two safe harbors: pay the amount of tax paid in the prior year, or pay 90 percent of the current year's tax. In short, the amendment clearly labels the payments as an estimated tax and more clearly lays out the amount of tax one should be paying or estimating.

REPRESENTATIVE SCALZI requested clarification on whether this currently applies to processors, and not fresh fish, in regulations.

MR. HARLAMERT confirmed this statement. He clarified that this provision applies only to taxpayers under AS.43.77.020, which is the landing tax. These taxpayers are typically catcher-processors who catch and process fish outside of Alaska's territorial limits. However, they land their fish inside of Alaska and therefore pay a fishery resource landing tax, which is a complementary tax to the fishery business tax. The amendment simply improves the language of Section 2 of the original bill without changing the bill's intent. It clarifies for the taxpayer what the required payment is.

CO-CHAIR WILSON wondered if this amendment had anything to do with the bill.

REPRESENTATIVE SCALZI remarked that the amendment is a "rider" to the bill. Everyone knows the intent of the original bill, but since "we" were going into this section in statute, the department wanted to add clarifying language. He said he had no objection to the amendment since it is beneficial to the taxpayers for understanding their liability, and it is put into statute.

MR. HARLAMERT said that regulations require estimated tax payments, and most taxpayers make them. However, the Department of Revenue would like these particular regulations to be put into statute as well.

Number 0667

CO-CHAIR STEVENS remarked that he understood (d)(1) of Amendment 1. He referred to (d)(2), which read:

**(2) at least 100 percent of the taxpayer's tax liability under this chapter for the prior tax year.**

CO-CHAIR STEVENS asked whether this could vary for catcher-processors. For example, if [fishermen] "made only part of the season or didn't have a good season," would they be required to pay the same amount they paid the prior year? He also asked when they would pay the remainder owed to the state.

MR. HARLAMERT replied that the remainder is paid with the return, which by statute is before April 1; however, this sometimes gets delayed.

CO-CHAIR STEVENS asked how this works regarding a time sequence. At what point would last year's tax liability be paid, and would the balance be paid on April 1?

MR. HARLAMERT said he believed evenly spaced quarterly payments would be due March 15, June 15, September 15, and December 15.

CO-CHAIR STEVENS asked, if someone was paying 100 percent of what was paid the prior year, whether he or she would pay by quarterly payments.

MR. HARLAMERT said the person could make a choice: estimate the liability for the current year and pay up to 90 percent of that, or "play it safe and secure" by paying 100 percent of last year's taxes. The lesser of those amounts can be paid without incurring a penalty. He offered an example. He then said it is similar to an individual income tax, but corporate.

Number 0850

REPRESENTATIVE SCALZI made a motion to adopt Amendment 1 [text provided previously]. There being no objection, Amendment 1 was adopted.

Number 0963

REPRESENTATIVE COGHILL made a motion to move CSHB 154, version 22-LS0638\F, Utermohle, 3/9/01, as amended, from committee with individual recommendations and the attached zero fiscal note. There being no objection, CSHB 154(FSH) was moved from the House Special Committee on Fisheries.

CO-CHAIR WILSON apologized, saying someone wanted to speak.

KEVIN HOGAN, President, Auction Block Company, testified via teleconference:

I'll give you a little history of what our company is about and how we tie into the fish business. The company was formed in 1997, and at that time we got a fisheries business license because we didn't have a prior track record. We had a very low estimated fish

tax, which was very easy to bond, and that's how we obtained our fisheries business license.

In 1998, we became the largest buyer of halibut in the state, and correspondingly we had a much larger fish tax debt. ... We've always paid our fish tax and intend to continue to do so. ...

Our business is an Internet fish auction. The vessels come in and list their loads with us and we auction it off over the Internet. So it's been beneficial for the state by raising the ex-vessel prices, and thus the corresponding raw fish taxes is based on that ex-vessel price.

Having become successful doing this, we encouraged a rather large raw fish tax, as we were taking possession of the fish under our own fish ticket and then sending it out to the winning bidders, wherever they might be.

So last year we had an arrangement where we put up a bond and paid as we went on our fish tax. We estimated what we thought our liability was going to be and we, of course, overshot that by quite a bit. So the current year, in order to obtain our business license, the requirement was that we come up with over \$350,000 prepaid fish tax.

Our operation has absolutely very little, and we have no real property, which is the only thing accepted for collateral. ... We operate on a smaller margin than what the raw fish tax amounts to (indisc.) and whatever profits we might have.

So for the last two years, virtually 100 percent of the profits of business that generated had been pledged to the state as collateral for obtaining the fisheries business license. Eventually, we would like to be able to continue to pay our tax and not have to commit 100 percent of what we make. It would be nice to be able to eat, too.

So, I support this legislation. I think it's important that the state keep current with new developments in the industry and not get stuck in the rut of having our industry exist in the past. As new

developments and technology and markets develop, we have to have the flexibility and mechanisms to be able to adjust and accommodate the changes in the market and industry. So, I think this helps.

I think I'd like to see that it also be (indisc.) to the shoreside processors too. And I know that smaller businesses have a large difficulty in capitalizing their operations and being able to pay 100 percent of their tax liability upfront. If they're allowed to pay as they go, it just expands the world for our markets.

So I appreciate your considering this bill, and I would hope that you support it and get it passed. Thank you.

[CSHB 154(FSH) was moved out of the House Special Committee on Fisheries.]

#### HB 131-FOREST RESOURCES & PRACTICES STANDARDS

CO-CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 131, "An Act relating to standards for forest resources and practices; and providing for an effective date." Chair Wilson clarified that HB 131 is the governor's bill.

Number 1422

JEFF JAHNKE, State Forester, Division of Forestry, Department of Natural Resources; Presiding Officer, Board of Forestry, came forth on behalf of the administration and the Board of Forestry in support of HB 131. He said this bill is the result of hard work by many people. The bill began from a Board of Forestry's request that the agency be responsible for Alaska Forest Resources & Practices Act (FRPA) review of the repair and management standards throughout the state. [Note: The FRPA is often called the Forest Practices Act as well.]

MR. JAHNKE explained that the process began with a review of the coastal region, Region I, which culminated in SB 12, passed by the legislature in 1999. The review for the Interior region, Region III, has now been completed. "We" began with a science and technical committee that recommended changes needed to provide adequate protection for fish habitat and water quality. The next step was to work toward an implementation group. This group represented affected interests, to determine how to

implement the recommendations in the manner that works on the ground. Following this, legislation [HB 131] was drafted.

MR. JAHNKE said the three key points to this bill are based on the best available scientific information. Public discussion of the bill throughout the process involved a wide range of interests, including scientists from many fields and people from the timber industry, fishing industry, and environmental community. The "final package" became HB 131, which was passed by the Board of Forestry in January. The Board of Forestry consists of representatives from the forest industry, commercial fishing, environmental organizations, Native corporations, professional foresters, fish and wildlife biologists, mining organizations, and "recreationists."

MR. JAHNKE remarked that changes in HB 131 help ensure that the goals of the FRPA are met, which are "to provide adequate protection to fish habitat and water quality and at the same time to support the continuation of healthy timber in fishing industries in Alaska." These changes also help ensure that the Act continues to satisfy the requirements for non-point forest pollution in the federal Clean Water Act as well as the Coastal Zone Management Act. [House Bill 131] provides "one-stop shopping" for all of those Acts including the FRPA for the timber industry.

MR. JAHNKE requested that Martha Welbourn-Freeman go through specific characteristics of the bill, since she is the expert on HB 131 with regard to technical aspects.

Number 1633

MARTHA WELBOURN-FREEMAN, Forest Resources Program Manager, Division of Forestry, Department of Natural Resources, testified via teleconference. She informed listeners that she also served as co-chair of the Science and Technical Committee and as co-chair of the Implementation Group. She gave the following testimony:

I'd like to talk briefly about the relationship of this bill to the existing Act and summarize the key provisions in the bill. First, I'd like to say that this is not a wholesale revision of the [FRPA]. For many issues, the Science and Technical Committee and Implementation Group did not recommend changes to the Act or to the regulations. The major changes proposed affect only the part of the Act that addresses stream

classification and riparian management in Region III - that's Interior Alaska. ...

In your briefing packets there's a map that shows the three regions for forest practices. It also makes a minor change to the boundary between Region I and Region II on the Kenai Peninsula - and that area shows up in red on your map. The Interior had been using interim standards for riparian management since the [FRPA] was revised in 1990. At that time, we had very little specific information for Interior Alaska. Under those standards, timber harvesting could occur up to the bank of the anadromous waters on both public and private land under certain conditions.

This bill classifies anadromous and high-value resident fish waters in Interior Alaska into three kinds, and then it sets riparian standards for each kind. The first type we call Type III-A. These are non-glacial waters that are wider than 3 feet, and they include glacial backwater sloughs. These types are grouped together because they're productive waters for fisheries and because they are temperature-sensitive and because they "eat" large wooden debris.

On these types on private land, the Act establishes a no-cut buffer that's 66 feet wide. The buffer on public land is 100 feet. But harvesting can occur on land where 33 feet of the public land is buffer if the Department of Fish & Game concurs that harvesting can be done without adversely affecting fish habitat or water quality.

The second type, Type III-B, ... are all the glacial waters except for the glacial backwater sloughs. These types are not sensitive to temperature changes, but they do need large woody debris for the whole system. On these waters there's a 66-foot riparian area on private land and a 100-foot riparian area on public land. Half of the riparian area that's closest to the stream is a no-cut buffer. The landward half allows harvesting of up to half the large white spruce, those over 9 inches in diameter, without requiring the variations.

Number 1799

MS. WELBOURN-FREEMAN continued, stating:

So, there can be some harvests of the high-value trees in the landward part of that buffer. The final type[s] are small non-glacial streams, streams that are left up to 3 feet wide. ... On these there's a special management area that's 100 feet wide in which harvesting may occur, but it must be consistent with the maintenance of the sports fish and wildlife habitat.

The Department of Fish & Game and DNR [Department of Natural Resources] have pledged to do more research on this stream type. It's the stream type that we know the least about. ... We want to work on those this summer to determine the extent of their occurrence within commercial forests and to assess needed management measures specific to this (indisc.).

The bill also makes some other changes. The first is that it changes the statewide nomenclature to water body classes to prevent confusion between the water body types in different regions. Currently, we call the types in coastal regions [in Region I, for example] ... types A, B, C, and D. We changed that ... to I-A, I-B, I-C, and I-D, and then the types for the Interior will be III-A, III-B, and III-C. It also moves the definitions of the boundaries between regions from the regulations to the Act.

Currently, it's the regulations that design the lines between regions I, II, and III. We want to move those boundaries into the act. In doing so, the bill also proposes a minor change to the boundary between Region I and Region II on the Kenai Peninsula. The revised boundary better matches the change between the coastal forest type of Sitka spruce and Western hemlock and the (indisc.) forest type that's dominated by white spruce and the (indisc.) hybrid.

Most forestland in the area affected by that change is in federal ownership, primarily in the Chugach National Forest. So there will be very little impact on the landowner. We have reviewed this proposed change with the other major landowners in the area including Native corporations [and the] mental health

trust in the Kenai Peninsula Borough, and none of those parties have concerns or doubts of the change.

Number 1931

REPRESENTATIVE DYSON referred to "break in the land" and asked whether this is a term of art in law.

MS. WELBOURN-FREEMAN replied that it is defined in regulations for the Act. The slope rate refers to the change in the angle of the slope.

REPRESENTATIVE DYSON asked for the definition of "riparian."

MS. WELBOURN-FREEMAN stated that riparian areas are specific areas defined in the Act.

REPRESENTATIVE DYSON wondered if the riparian area is the land from the creek to the edge of the regulated area under this bill.

MS. WELBOURN-FREEMAN confirmed this statement.

REPRESENTATIVE DYSON asked what minimum-sized creek this would apply to.

MS. WELBOURN-FREEMAN said it applies to "all but waters that ... have either anadromous or high-value resident fish."

REPRESENTATIVE KERTTULA commented that she has always had a problem with having a 66-foot buffer for private land and a 100-foot buffer for public land. She asked Ms. Welbourn-Freeman to explain the philosophy behind this.

MS. WELBOURN-FREEMAN explained that the 66-foot buffer is based on two factors: the width needed to maintain shading on stream types that are sensitive to temperature (primarily the type III-A streams in the Interior) and large woody debris. By looking at the angles of the sun and typical tree heights, [observers] noted that a width of 52 to 72 feet is needed to maintain natural shading conditions and prevent temperature increases. For streams that need large woody debris, 95 percent of the debris is retained if a buffer is maintained that is about two-thirds the width of the tree height. Consequently, 50- to 60- foot buffers are needed to maintain large woody debris. This is where the 66-foot buffer comes from.

REPRESENTATIVE KERTTULA asked why the private land buffer is not the same amount as the public land buffer [100-feet].

MS. WELBOURN-FREEMAN replied that on private land [the Division of Forestry] is dealing with the issue of balance between protecting the fisheries resource source and allowing the private landowner to get full use of timber values. She added, "The difference between large woody debris - for example, between 66 feet and 100 feet - is only the difference between about 95 percent of the large woody debris being retained and about 99 percent being retained."

MS. WELBOURN-FREEMAN explained that the other difference is that under the FRPA, for public land [the Division of Forestry] has a duty to look at fish, habitat, and other factors including wildlife. However, on private land [the division] is only authorized to address fish and habitat issues and water quality.

REPRESENTATIVE KERTTULA asked Ms. Welbourn-Freeman whether she has ever been threatened with the "takings case," and if the 66-foot buffer should become a 100-foot buffer.

MS. WELBOURN-FREEMAN remarked that there has been repeated discussion about this throughout the development of the FRPA since the 1990 revision.

REPRESENTATIVE COGHILL said, "The private taking could also be challenged." He referred to page 3, lines 11-13 [of HB 131], which read:

(2) Along a Type III-B water body, harvest of timber may not be undertaken within 33 feet of the water body; between 33 feet and 66 feet from the water body, up to 50 percent of standing white spruce trees having at least a nine-inch diameter at breast height may be harvested without requiring a variation;

REPRESENTATIVE COGHILL asked how a 9-inch diameter was decided upon, and how much leeway there is.

Number 2248

MS. WELBOURN-FREEMAN explained that a 9-inch diameter on the Type III-B [glacial] water body was established because of wanting a balance between "allowing the landowner to get some of the value out of the stream buffers where there is a lot of valuable timber, but still provide enough large woody debris to the system

as a whole." The 9-inch diameter represents a "rough cutoff" between the high-value white spruce [trees] for most purposes. So the landowner could take out half of the white spruce trees that are over 9 inches in diameter, without requiring a site-specific variation. She went on to say this is only in the half of the buffer away from the stream.

Number 2312

JILL KLEIN, Project Manager, Yukon River Drainage Fisheries Association (YRDFA), testified via teleconference:

We are a nonprofit association that works with subsistence and commercial salmon fisheries on the Yukon River. We were formed in 1990 when fishermen and women set up three basic priorities for the association. These are to foster communication and cooperation between the sources (indisc.) fishermen, promote cooperative management between fishermen and the state, and to increase returns of salmon through habitat protection and restoration projects in the Yukon River Drainage.

YRDFA has 16 board members including commercial and subsistence fishermen and women from the mouth of the river to the Canadian border. There are also 14 alternates, and we also have a membership of 200-plus people in the Yukon River drainage. As mentioned, an implementation group was created to include various interests when making recommendations to the Forest Resources and Practices Act. YRDFA was invited to participate in this implementation group in order to represent fishing interests in the Yukon River Drainage.

Bill Fleres (ph), a YRDFA board member from the village of Tanana, and Chris Stark, a YRDFA fisheries biologist from Fairbanks, as well as myself participated in various meetings of this process. YRDFA would like to express support for the process and the outcome that took place to make recommendations to the classification of stream types and riparian buffers for public and private land in Region III under the Forest Resources and Practices Act.

House Bill 131 is good for both fishing and timber because it does strengthen protection for Interior fish habitat and does it in a way that is practical for the timber industry to implement.

Number 2417

NANCY FRESCO, Northern Alaska Environmental Center, testified via teleconference:

I, too, was part of the implementation committee that's already been mentioned, that took part in putting together the legislation that you now see before you. And I'm also here to voice support for both the outcome and the process. While in our task of representing environmental concerns in the Interior, we certainly feel that there are many habitat issues at stake that may come up for discussion in the future. We believe that the process was sound in this case for several reasons.

First, as Marty Welbourn-Freeman has already described, there was sound science behind it. ... It was examined in detail by a science and technical committee with full literature review as well as local information and some on-the-ground work. There was also a public process. ... The meetings of the science and technical [committee] were open to the public. And then there was good effort to include all stakeholders within the implementation group; ... all work within that group was done with a view toward consensus, and all decisions were made on a consensus basis.

Also, as mentioned, there will be follow-through, both this summer when the smaller stream categories are revisited jointly by the Division of Forestry and by [the Department of] Fish & Game, and also continuing into the future as DNR continues to look at such issues as glacier water bodies, large woody debris, the changing dynamics of the Tanana River floodplain and other continuing studies.

Number 2554

CHRIS STARK testified via teleconference:

My background is ... juvenile fisheries research. I have [a] research-associate position at University of Alaska Fairbanks. I do piecework for YRDFA and for Bering Sea Fishermen's Association, and I also hold the environmental seat on the local fishermen's advisory committee.

I'd just like to encourage you to go ahead and pass this as is. It is, again, based on very good science. Albeit we're a little shy on extensive science up here, but from the fisheries standpoint, I think this is as good as we're going to get it. From the environmental community, I believe that's the case again. And I believe this is a workable situation for the forestry folks as well.

Number 2583

REPRESENTATIVE COGHILL asked if this bill would help with access issues involving fish counts on streams, in particular weir counts on the Kuskokwim River.

MR. STARK answered no, explaining that YRDFA and the Bering Sea Fishing Association do have numerous fish counts. This won't really make any difference at all in that situation. What this is doing is enhancing juvenile habitat - large woody debris. Some of the research recently done in Tanana [proves] it's really wood that provides energy.

Number 2648

LARRY SMITH testified via teleconference:

These are modest but very welcome standards. They've been a long time coming. In the 1990 Forest Practices Act statutory changes, these kind of provisions were ordered by the legislature to occur by 1991 - and not just for this Region III, but for all of Region II as well. But like the Region I improvements, in the 1990 legislation they're often an illusion because of the lack of appetite and ability of agencies to enforce the standards.

One should never underestimate, as well, the power of the variation clause in the Forest Practices Act to undo the so-called no-cut buffers. The situation has not changed much, in my view, from what was reported

to the Board of Forestry and to the legislature in 1995 by the [Alaska] Department of Fish & Game. That report is still to the point, and it says, and this is a quote, "ADFG staff are uniformly of the belief that the implementation of the Forest Practices Act remains seriously deficient. We simply do not provide the level of protection originally envisioned. This is particularly true for fish habitat in riparian areas."

As the budget to fix these problems has not been provided to the three agencies with responsibility to enforce the Forest Practices Act, I hope the fishery committee members will be advocates for better monitoring budget and provide active oversight for implementation.

Jeff Jahnke and Marty Freeman need your support for their forest practices budget. Fish & Game needs your support and so does DEC [Department of Environmental Conservation] for its forest practices responsibilities or additional funding needs to be provided to the Department of Fish & Game to take on DEC's water quality duties. They have pretty much withdrawn from the woods except on federal lands. ...

To conclude, let me ask you to please not forget the part of the state that still doesn't have these standards; ... that's around Cook Inlet, that's around Anchorage, that's the Mat-Su Valley, that's the Copper River Valley. All those other lands that are south of the Alaska Range, ... north of Region I, need this kind of attention, and real enforcement.

CO-CHAIR WILSON asked Mr. Smith if he was representing himself or an organization.

MR. SMITH replied that he was representing himself. He stated that until 1990, he was active in revising statewide provisions for the Forest Practices Act.

Number 2838

JERRY McCUNE, United Fishermen of Alaska (UFA), came forth and stated:

I watched the Board of Forestry ... for the last ten years as a commercial fisherman out of Cordova. And

you have to understand, this is an agreement between all the [industries]. ... The forest industry is at the table, and commercial fishermen and the conservationists and everyone come to these agreements on the best available science for these regions. ... They've been going through the whole state, and this is just one part we passed two years ago. ... So, this is the same thing.

The recommendations from the Board of Forestry, from industry and all other parties including the public, based on scientific information, is the best scientific information for forestry practices without going into the whole Forest Practices Act, which we do want to do.

Number 2911

REPRESENTATIVE COGHILL referred to what Mr. McCune alluded to as the best possible science and asked Mr. McCune whether he thinks this allows for expansion of upcoming science, and whether it puts good parameters around it.

MR. McCUNE responded that he imagines there could be other science as well as other practices that come to light such as helicopter logging, which saves on building roads. It most likely would go to the Board of Forestry and be "kicked" around.

CO-CHAIR WILSON pointed out that in the committee packets there are letters from the Alaska Forest Association, the Alaska Society of American Foresters, and the Resource Development Council for Alaska in favor of the bill.

TAPE 01-12, SIDE B  
Number 2965

REPRESENTATIVE SCALZI made a motion to move HB 131 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 131 was moved from the House Special Committee on Fisheries.

TERM EXPIRATION DATE FOR BRUCE TWOMLEY, COMMISSIONER, COMMERCIAL FISHERIES ENTRY COMMISSION

Number 2916

CO-CHAIR WILSON announced that the committee needed to change the expiration date for the appointment of Commissioner Bruce Twomley to the Commercial Fisheries Entry Commission, from 7/01/04 to 3/01/05.

CO-CHAIR STEVENS made a motion to change the term expiration date to 3/01/05. There being no objection, it was so ordered.

LETTER TO THE DEPARTMENT OF PUBLIC SAFETY RE: POACHING

Number 2863

CO-CHAIR WILSON announced that the committee would discuss the letter to the Department of Public Safety about enforcement concerns relating to fisheries in Southeast Alaska [and elsewhere]. She read the first paragraph of the two-page letter [original punctuation provided]:

It has been brought to our attention as co-chairs of the House Resources Committee and co-chairs of the House Fisheries Committee that the illegal poaching during the 2000 Southeast commercial salmon seine season was at an all-time high in closed areas. Transgressions included stealing at night, setting early, and fishing over markers. These transgressions were observed by a number of fishermen who wish to increase the enforcement before the year-2001 season.

REPRESENTATIVE KERTTULA suggested deleting, from paragraph 3 of the letter, "Although fisherman have told us that they are willing to pay a small assessment to fund increased enforcement,". The paragraph would then begin, "The presence of the enforcement at times throughout the season should not create a fiscal impact. It will, however, be an important deterrent to illegal fishing activities." Then she suggested deleting the period, adding a comma, and "as would an increase in fine." She said it is her understanding that most fishermen would be willing to see an increase in fines in order to see a true deterrent.

REPRESENTATIVE KERTTULA referred to the last paragraph, second sentence, which read in part, "Albert Hofstad (772-3880), a long-time Petersburg fisherman who is representing area fishermen". She said she doesn't know how broad that really is, and therefore suggested it should read, "Albert Hofstad [(772-3880)], a long-time Petersburg fisherman."

Number 2699

JERRY McCUNE, United Fishermen of Alaska (UFA), stated that his only objection would be the increase in fines. He said [UFA] went over this four years ago, and has finally "hammered out" an enforcement bill, which took two years. In that bill is a provision for a point system whereby a person could lose his or her license for a year after receiving 12 points. To Representative Kerttula's second suggestion, he said he doesn't have any problem with it, as long as [Albert Hofstad] doesn't.

REPRESENTATIVE KERTTULA stated that she would remove her suggestion about Albert Hofstad.

CO-CHAIR STEVENS referred to Representative Kerttula's suggestion that removes the first sentence [of paragraph 3 of the letter], which talks about a small assessment to fund increased assessment. He asked Mr. McCune whether, with his opposition to the fines, he is suggesting a small assessment would be appropriate.

MR. McCUNE responded that there is already a point system, as well as a fine system, in place. Most fines are up to the judge.

CO-CHAIR STEVENS remarked that in the end, he thinks if "we" do the job well, there shouldn't be any fines. Therefore, there wouldn't be any funds coming in to pay for this additional enforcement. He referred to language in the letter, "Although fisherman have told us that they are willing to pay a small assessment to fund increased enforcement"; he said it refers to fines or a separate type of funding arrangement. He observed that Mr. McCune had said he doesn't like the change, but the change takes out that small assessment.

MR. McCUNE responded that this is talking about 10,000 people. Most fishermen don't want to pay an assessment for enforcement, but the state should.

Number 2462

CO-CHAIR WILSON asked whether the will of the committee is to take the first part of that sentence out or to leave it in.

REPRESENTATIVE SCALZI stated that he would move to strike the first sentence up to the comma. He added that he doesn't recall that being in the intent of the letter, because he doesn't

recall fishermen saying they were willing to pay a small assessment.

Number 2398

REPRESENTATIVE KERTTULA withdrew her first amendment and suggested deleting the first sentence [of paragraph 3] up to the second line after "enforcement". Therefore, the paragraph would read:

The presence of the enforcement at times throughout the season should not create a fiscal impact. It will, however, be an important deterrent to illegal fishing activities.

REPRESENTATIVE KERTTULA, in response to a question regarding whether the second sentence would then make sense, suggested asking the department.

REPRESENTATIVE DYSON remarked that he doesn't think taking the first part out matters that much. He explained:

This is just a letter. It is fairytale to think that increased enforcement doesn't cost something. ... In fact, there isn't enough money for the enforcement that we need in most of Alaska's competitive fisheries. And it's an issue we need to address at some point. ... Taking the fine thing was wise because we can't and shouldn't even imply that ... collection of fines is going to offset the cost of enforcement.

REPRESENTATIVE KERTTULA agreed with Representative Dyson. To get rid of the "fairytale," she suggested as Amendment 1 that paragraph 3 should read:

The presence of the enforcement at times throughout the season will be an important deterrent to illegal fishing activities.

CO-CHAIR WILSON announced that there being no objection, it was so ordered.

Number 2153

EDWARD C. FURMAN came forth on behalf of the fishermen from Cordova. He stated:

I saw many fishermen come into the courtroom in Cordova and be treated unfair, because they [weren't] tried by jurors. Why is it that these men aren't allowed to have a jury trial? Why is the legislature asleep when the constitution says that if you're fined over \$200, you shall have a jury trial? The U.S. Constitution [says that] over \$20 it is up to ... legislators to vote that in. These men, who a lot of them are poor, they can't afford to pay these fines.

REPRESENTATIVE DYSON remarked that he thought if [a fisherman] demands a [jury trial], he or she could have one.

REPRESENTATIVE KERTTULA stated that she doesn't know if there is a special statute for fishing violations.

MR. McCUNE explained that there has to be a burden of proof in fishing violations. It has been said that it might be challenged; however, it hasn't yet. It gets very complicated, he said. For example, if [a fisherman] said he or she fell asleep and went over the line, it is different from intentionally going over the line. Another glitch is this: if a [fisherman] leases his or her permit and the person to whom it is leased gets a violation, it goes on the owner's permit.

REPRESENTATIVE KERTTULA suggested it might be worthwhile to have the Department of Law testify on this. She added that it does depend on whether it is a civil or criminal penalty. She thanked Mr. Furman for testifying and said it is an honor to have a fisherman from Cordova present.

Number 1859

REPRESENTATIVE DYSON [made a motion to adopt the letter, as amended]. There being no objection, it was so ordered.

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 6:20 p.m.