

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 9, 2001

1:15 p.m.

MEMBERS PRESENT

Representative Beverly Masek, Co-Chair
Representative Drew Scalzi, Co-Chair
Representative Joe Green
Representative Mike Chenault
Representative Lesil McGuire
Representative Gary Stevens
Representative Mary Kapsner
Representative Beth Kerttula

MEMBERS ABSENT

Representative Hugh Fate, Vice Chair

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 60(JUD) am

"An Act relating to agricultural facilities and operations as private nuisances; and to disclosures in transfers of certain real property located within the vicinity of an agricultural facility or an agricultural operation."

- MOVED HCS CSSB 60(RES) OUT OF COMMITTEE

CONFIRMATION HEARING

Commercial Fisheries Entry Commission

Bruce Twomley - Juneau

- CONFIRMATION ADVANCED

HOUSE BILL NO. 216

"An Act relating to the emergency order authority of the commissioner of fish and game and to meetings of the Board of Fisheries."

- MOVED CSHB 216(RES) OUT OF COMMITTEE

HOUSE BILL NO. 82

"An Act relating to agricultural facilities and operations as private nuisances; and to disclosures in transfers of real property located within one mile of an agricultural facility or an agricultural operation."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 222

"An Act relating to annual rental fees for mining claims."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 206

"An Act relating to a vessel-based commercial fisheries limited entry system, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: SB 60

SHORT TITLE:FARM OPERATIONS:DISCLOSURE /NUISANCES

SPONSOR(S): SENATOR(S) GREEN

Jrn-Date	Jrn-Page		Action
01/30/01	0221	(S)	READ THE FIRST TIME - REFERRALS
01/30/01	0221	(S)	JUD
02/07/01	0301	(S)	COSPONSOR(S): THERRIAULT
03/30/01		(S)	JUD AT 1:30 PM BELTZ 211
03/30/01		(S)	Moved CS(JUD) Out of Committee MINUTE(JUD)
04/02/01	0902	(S)	JUD RPT CS 3DP NEW TITLE
04/02/01	0902	(S)	DP: TAYLOR, DONLEY, THERRIAULT
04/02/01	0902	(S)	FN1, FN2: ZERO(DNR)
04/04/01	0932	(S)	RULES TO CALENDAR 10R 4/4/01
04/04/01	0942	(S)	READ THE SECOND TIME
04/04/01	0942	(S)	JUD CS ADOPTED UNAN CONSENT
04/04/01	0942	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/04/01	0942	(S)	READ THE THIRD TIME CSSB 60(JUD)
04/04/01	0942	(S)	PASSED Y17 N2 E1

04/04/01	0942	(S)	ELLIS NOTICE OF RECONSIDERATION
04/04/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/05/01	0959	(S)	RECON TAKEN UP - IN THIRD READING
04/05/01	0959	(S)	RETURN TO SECOND FOR AM 1 UNAN CONSENT
04/05/01	0959	(S)	AM NO 1 ADOPTED Y15 N4 E1
04/05/01	0959	(S)	...CHANGES TITLE OF LEGISLATION
04/05/01	0960	(S)	AUTOMATICALLY IN THIRD READING
04/05/01	0960	(S)	PASSED ON RECONSIDERATION Y17 N2 E1
04/05/01	0962	(S)	TRANSMITTED TO (H)
04/05/01	0962	(S)	VERSION: CSSB 60(JUD) AM
04/06/01	0875	(H)	READ THE FIRST TIME - REFERRALS
04/06/01	0875	(H)	RES
04/09/01		(H)	RES AT 1:00 PM CAPITOL 124

BILL: HB 216

SHORT TITLE:BD OF FISHERIES MEETINGS/EMERGENCY ORDERS

SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/26/01	0730	(H)	READ THE FIRST TIME - REFERRALS
03/26/01	0730	(H)	FSH, RES
03/27/01	0746	(H)	FSH REFERRAL WAIVED
04/02/01		(H)	RES AT 1:00 PM CAPITOL 124
04/02/01		(H)	Heard & Held MINUTE(RES)
04/09/01		(H)	RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

HANS NEIDIG, Staff
to Senator Lyda Green
Alaska State Legislature
Capitol Building, Room 125
Juneau, Alaska 99801
POSITION STATEMENT: Spoke on behalf of Senator Green, sponsor
of SB 60.

PETER FELLMAN, Staff

to Representative John Harris
Alaska State Legislature
Capitol Building, Room 513
Juneau, Alaska 99801

POSITION STATEMENT: On behalf of Representative Harris, sponsor of HB 82, the companion bill in the House, answered questions regarding SB 60.

WAYNE REGELIN, Director
Division of Wildlife Conservation
Alaska Department of Fish & Game (ADF&G)
PO Box 25526
Juneau, Alaska 99802-5526
POSITION STATEMENT: Testified regarding SB 60.

LARRY DeVILBISS
HC04 Box 9302
Palmer, Alaska 99645
POSITION STATEMENT: Testified regarding SB 60.

ROBERT WELLS, Director
Division of Agriculture
Department of Natural Resources (DNR)
PO Box 1800 Glenn Highway, Suite 12
Palmer, Alaska 99645-6736
POSITION STATEMENT: Answered questions regarding SB 60.

DOUG MECUM, Director
Division of Commercial Fisheries
Alaska Department of Fish & Game (ADF&G)
PO Box 25526
Juneau, Alaska 99802-5526
POSITION STATEMENT: Answered questions regarding SB 60.

BRUCE TWOMLEY, Appointee
to the Commercial Fisheries Entry Commission
PO Box 020972
Juneau, Alaska 99802-0972
POSITION STATEMENT: Testified as appointee to the Commercial Fisheries Entry Commission.

JIM COLIER
PO Box 966
Wrangell, Alaska 99929
POSITION STATEMENT: Testified regarding Bruce Twomley, appointee to the Commercial Fisheries Entry Commission.

LANCE NELSON, Assistant Attorney General
Natural Resources Section
Civil Division (Anchorage)
Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-1994
POSITION STATEMENT: Commented on HB 216, Version L, and
answered questions; suggested amendment [Amendment 1].

DOUG MECUM, Director
Division of Commercial Fisheries
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526
POSITION STATEMENT: Testified on HB 216, Version L, and
answered questions.

JERRY McCUNE
United Fishermen of Alaska
211 Fourth Street, Suite 112
Juneau, Alaska 99801
POSITION STATEMENT: Testified in support of HB 216, Version L.

SUE ASPELUND, Executive Director
Cordova District Fishermen United
P.O. Box 939
Cordova, Alaska 99574
POSITION STATEMENT: Testified in support of HB 216, saying it
is important legislation, especially Section 3, which will help
to restore the public's confidence.

DAN WINN, Commercial Fisherman
(No address provided)
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of HB 216.

JENNIFER YUHAS, Staff
to Representative Beverly Masek
Alaska State Legislature
Capitol Building, Room 128
Juneau, Alaska 99801
POSITION STATEMENT: Explained Amendment 2 to HB 216, Version L.

ACTION NARRATIVE

TAPE 01-31, SIDE A
Number 0001

CO-CHAIR BEVERLY MASEK called the House Resources Standing Committee meeting to order at 1:15 p.m. Members present at the call to order were Representatives Masek, Scalzi, McGuire, Green, Chenault, Stevens, Kapsner, and Kerttula.

SB 60-FARM OPERATIONS:DISCLOSURE /NUISANCES

[Contains discussion of HB 82, the companion bill in the House]

CO-CHAIR MASEK announced that the first order of business would be CS FOR SENATE BILL NO. 60(JUD) am, "An Act relating to agricultural facilities and operations as private nuisances; and to disclosures in transfers of certain real property located within the vicinity of an agricultural facility or an agricultural operation."

Number 0145

HANS NEIDIG, Staff to Senator Lyda Green, Alaska State Legislature, came before the committee to testify on behalf of Senator Green, sponsor of SB 60. He explained that SB 60 would provide better protection for Alaskan farmers, who had requested the legislation because of the belief that their farming operations are not adequately protected under current Alaska Statutes.

MR. NEIDIG indicated many farmers have had some experience with an encroachment on their right to farm. As urbanization moves in, often the newcomers don't like certain aspects of agriculture such as the animals, sounds, and smells. Those who move to the country need to know what they are getting into. People in other areas of the nation, where urban sprawl is creating a bigger problem than yet experienced in Alaska, are taking action to protect existing agricultural operations and avoid unnecessary lawsuits. Mr. Neidig stated:

The Right-to-Farm bill takes the reasonable and innovative approach of coupling a farmer's grandfathered right to continue agricultural activities, to the filing and maintaining of a farm conservation plan with the U.S.D.A. [United States Department of Agriculture] Soil and Water Conservation Service. In this way, SB 60 protects the rights of farmers by ensuring that farmers cannot be sued in Alaska, for simply conducting everyday farming activities.

[There was a motion to adopt the Senate version for discussion purposes, but it was already before the committee.]

Number 0300

REPRESENTATIVE KERTTULA asked Mr. Neidig whether the Senate version includes aquatic farming, moose, and timber operations.

MR. NEIDIG replied that "moose" is listed in the definitions. Forestry was already in the legislation, and the Senate Judiciary Committee added some clarifying language.

[An unidentified speaker indicated "aquatic farming" is listed on page 2, line 16, of CSSB 60(JUD) am.]

REPRESENTATIVE KERTTULA asked what the new language regarding timber is going to mean.

MR. NEIDIG responded that he could not speak for the Chair of the Senate Judiciary Committee. However, the language "forestry or timber harvesting" was already in the bill. He stated his belief that it was the intent of the Senate Judiciary Committee to add language to cover that more broadly, including manufacturing or processing operations.

REPRESENTATIVE KERTTULA asked Mr. Neidig what "manufacturing or processing" could mean.

MR. NEIDIG reiterated that, at present, he could not speak for the Senate Judiciary Committee on that matter.

Number 0495

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, testifying via teleconference, spoke on behalf of Representative Harris, sponsor of HB 82, the companion bill in the House. He explained that the language added regarding processing clarifies language in existing statute. He read lines 23-25, on page 2 [CSSB 60(JUD) am]. He mentioned commodity and processing. He asked, "If you can harvest trees, what good is it if you can't process those trees into timber?"

REPRESENTATIVE KERTTULA noted that the language looks broad enough that someone could install a huge processing plant and the bill would cover it, which she did not see as the original

intent behind the bill. She asked Mr. Fellman to confirm whether she was correct.

MR. FELLMAN answered that under [SB 60], if people wanted to build a large processing plant or lumber factory, they would still be required to go to [Alaska] Soil and Water Conservation [with] a viable plan to prove that they can do this without harming the environment. A small farmer who feels it is more cost-effective to harvest a tract of trees and make lumber out of them, for example, will be covered by this legislation.

Number 0678

REPRESENTATIVE KERTTULA asked Mr. Fellman if all farms now in existence have soil and water conservation plans.

MR. FELLMAN replied that soil and water conservation plans are a voluntary program within Alaska and, in fact, the entire U.S. He explained that if farmers go to the soil and water conservation district and request help in protecting their land, animals, and neighbors, then the district [personnel] come to their land and put together a plan they can use to farm in a safe manner. Mr. Fellman said without having the numbers in front of him, out of 13 districts in Alaska he was certain there were 500-600 soil and water conservation plans; conversely, 500-600 other farmers didn't have plans.

Number 0777

REPRESENTATIVE KERTTULA referred to her previous discussions with Mr. Fellman regarding either "having the plan" or having been in operation for three years. She asked Mr. Fellman to comment on whether he had any opposition to adding that language. She added, "I know this is the Senator's bill, so maybe I should be directing it to her aide."

MR. FELLMAN replied:

The problem with that is, ... in the Lower 48, the right-to-farm laws that have withstood the challenges from the [U.S.] Supreme Court had a mechanism that could show that the farmers were doing everything that they could do to farm in a safe and environmentally friendly manner.

And so, if we eliminated the need - if we make it so that there's two possibilities - then the chances of

the farmer who does not have their soil and water conservation plan ... being successful in protecting his crop against a nuisance lawsuit is greatly diminished.

The reason the plan is there is so we can prove that this farmer is making every effort possible to be a safe and environmentally friendly farmer and is concerned about his neighbors. And that's ... part of what we're trying to do with the existing law, to give it more bite when it comes to protecting the farmer.

REPRESENTATIVE KERTTULA said she agreed with that thought. However, this law has been in place for over ten years. She suggested a court could make a decision on whether or not it was going to allow it to stand, or could strike that provision of the law. She added, "So at least the farmer who's been in place for three years ... has a chance. ... Isn't that also correct?"

MR. FELLMAN responded that the Right-to-Farm law has never been challenged in Alaska. If the farmer is not a nuisance at the time he or she starts farming, the farmer is not considered to be a nuisance. In the legislation, "we" struck the specific number of years out, because there was concern that Alaska has a five-year clearing requirement, which could make it possible for a farmer to sit on his or her land for four years, decide to clear it, and not be covered.

MR. FELLMAN concluded that this legislation is in the best interests of all Alaskans. It will cover the farmers and save a lot of legal battles and fights among neighbors. In response to a follow-up question by Representative Kerttula, he said he was unaware of any cases in Alaska.

Number 1082

REPRESENTATIVE KAPSNER referred to an amendment made on the Senate floor to the title of the bill on page 1, lines 2-3, changing "located within one mile" to "located within the vicinity of an agricultural facility or [an agricultural] operation." She asked how that changes the bill.

MR. NEIDIG deferred to Mr. Fellman, who had worked on that change in the House.

MR. FELLMAN explained that in the previous bill a disclosure statement said "within one mile." In "Judiciary" it was decided

that the liability for disclosure in Alaska should be not on the individual who is selling the real estate or the property, but on the person who purchases the real estate. And so the purchaser now, under Megan's Law, needs to find out if there's a farm close enough that bothers him or her. If that farm is two feet from the house or twenty miles away, "if it bothers him, it bothers him." Therefore, in the vicinity, the purchaser must look around and see if there is a farm or a farm operation with which the purchaser is uncomfortable.

Number 1265

WAYNE REGELIN, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game (ADF&G), referred to a section of the bill that defines "livestock" [subsection (d)(3), page 3, lines 12-14] and noted that moose are included. He told the committee that moose are currently not considered livestock by Alaska law - they may not be owned by a person.

MR. REGELIN said the legislature has addressed the issue of moose farming three to four times in the last ten years, each time deciding it was not in the best interest of Alaska's wildlife or hunters. Mr. Regelin said he was surprised to see [moose included in the list of livestock], and he urged the committee to remove that language, which would potentially conflict with other statutes and create great confusion in the public.

Number 1349

MR. NEIDIG explained that the Senate Judiciary Committee added that language and [the sponsor] didn't consider it an unfriendly amendment at the time. He said he would "leave it at that" and deferred to Mr. Fellman for additional comment.

Number 1372

MR. FELLMAN responded that at the time, in the Senate Judiciary Committee, he was unprepared to address the moose issue. He offered his opinion, which he believed to be shared by Representative Harris, that moose should be "taken out of the definition."

Number 1412

LARRY DeVILBISS, testifying via teleconference, told members he is a carrot-and-beet farmer who started farming in the '50s

under the federal Homestead Act. His farm has a conservation plan, although it certainly wasn't required at that time. Since the '50s, subdivisions have developed all around the farm. Mr. DeVilbiss said he lives with subdivision dogs running through the farm, as well as four-wheelers and snowmobiles.

MR. DEVILBISS told listeners that when neighbors start complaining about tractors working late at night, or snow blowing off of fields and drifting across roads, they realize - from what goes on in other states - that sooner or later someone will try to get a legal answer that makes the farmer liable. He stated his belief that it is timely to have some protection in "this fastest growing part of the state."

MR. DEVILBISS stated his support of [SB 60]. He called it the centerpiece and number-one priority of the Alaska Farm Borough, which supports it strongly. He added that the Matanuska/Susitna Borough unanimously supported this as well.

MR. DEVILBISS recalled that the last time he testified "on this," it was amended to address the nuisance of blowing snow and to add "bison"; he believes that was when "moose" was added to the language. He said he is "pretty happy" with this."

MR. DEVILBISS told members the "processing element" is necessary. Although his farm hasn't grown carrots for six months, it is still processing them and putting them on the market, which involves traffic and hired help. Mr. DeVilbiss said eventually in [the Matanuska-Susitna area] there will be a need to freeze fresh vegetables and put them on the market year-round. He continued:

I think the intent of taking ... that three-year delay out of the older version was so that farms that came in with a conservation plan would be immediately covered. I believe, right now, if you bought land from either the state or the borough, you would be required to get a farm plan. And if the farm's being developed in compliance with the farm plan, it should have immediate coverage.

Number 1695

CO-CHAIR MASEK remarked that moose and bison are two totally different animals. She asked Mr. Neidig - based on testimony by Mr. Regelin, Mr. Fellman, and himself regarding the addition of

moose to the Senate bill - whether Senator Green would object to removing moose from the bill.

Number 1700

MR. NEIDIG responded that it would be left to the discretion of the House Resources Standing Committee.

Number 1745

REPRESENTATIVE KERTTULA asked Mr. Wells [waiting online] when aquatic farming was added. She also asked him to confirm that his division does not cover aquatic farming.

Number 1759

ROBERT WELLS, Director, Division of Agriculture, Department of Natural Resources (DNR), testifying via teleconference, recalled that ["aquatic farming"] was in the bills from the outset, as proposed by Representative Harris and Senator Green, because it was modeled after legislation in other states. He deferred to Mr. Fellman for further comment.

Number 1819

MR. FELLMAN affirmed that "aquatic farming" has been in the bill since the beginning, and said there are aquatic farmers in Alaska. He also affirmed that the language in the bill was modeled from that of other states that have had success in the "right to farm." He said "we" don't feel like limiting someone who wants to farm catfish, for instance, "where they could get protection if they do have a soil and water conservation plan." He went on to say that aquatic farming is a real industry that could be a possible industry in Alaska; therefore, it should be covered by the legislation.

Number 1874

REPRESENTATIVE KERTTULA asked, "Do they get soil and water conservation district plans?"

Number 1956

MR. WELLS answered that it was a good question to which he didn't know the answer. He added that the U.S.D.A. national farm statistics account for aquaculture in [agricultural] statistics. He surmised that the U.S.D.A. would be willing to

work with people, although he wasn't sure its staffing would allow for that. He suggested it could be looked into.

Number 1956

DOUG MECUM, Director, Division of Commercial Fisheries, Alaska Department of Fish & Game (ADF&G), came before the committee and stated that he just became aware of this issue when he came to this meeting. He pointed out that aquatic farming is governed under the Aquatic Farming Act, which has provisions to deal with impacts, changes in operations, and expansion of facilities, for example. Without talking to DNR staff in the Division of Mining, which is responsible for DNR's part of this, and to the Division of Governmental Coordination, Mr. Mecum said, he couldn't say if the present language of the bill poses conflicts with existing statutes.

Number 2009

CO-CHAIR MASEK suggested a friendly amendment to remove "moose," from page 3, line 13, of the bill. She asked if there were any objections.

REPRESENTATIVE KERTTULA said, "So moved." [No objections were stated.]

Number 2029

REPRESENTATIVE KAPSNER noted that "blowing snow" and "making noise" were not included in HB 82.

Number 2077

REPRESENTATIVE KERTTULA offered a second amendment, on page 2, lines 29-30, to delete ", manufacturing, or processing". She explained that this language was added on the [Senate] floor and is not "well intended." First, it appears the soil and water conservation boards probably won't allow this anyway. Second, the language, as-is, opens up an agricultural "right to farming" bill to something never intended - vast timber operations. Third, she expressed concern regarding what would happen in the future if there are amendments to the law. She said she is much more comfortable with the House bill, which does not contain the same language.

Number 2148

MR. NEIDIG, in response to a question from Co-Chair Masek, stated his belief, based upon [comments from] the Senate Judiciary Committee and on the Senate floor, that Senate members felt strongly that this language should be included. He deferred to the committee, however.

Number 2199

CO-CHAIR SCALZI asked for clarification regarding Amendment 2. He said to Representative Kerttula, "In terms of ... your father's district, where he grew up, I would think there would have been a need for that type of industry to be protected."

REPRESENTATIVE KERTTULA replied, "I haven't heard from anyone who spoke to that necessity." She suggested that Mr. Wells could speak to whether there has been any problem to date. She said there has never been a challenge under the original statute. Her concern is more along the lines of seeing "the other end of the problem," which could be much larger operations, should this law subsequently be amended. She added, "I think that that was, more or less, the intent of the amendment. So I'm not comfortable with it. But, certainly, it's up to the chair whether she wants to go further to ask for more information on it."

Number 2275

CO-CHAIR MASEK spoke against [Amendment 2]. She stated her belief that [SB 60] has been reviewed in Senate Judiciary Committee, and that [the language in question] is a good addition.

Number 2291

REPRESENTATIVE STEVENS said he appreciated [Amendment 2] and was going to vote for it, but was frustrated that no one from the Senate was present to "defend what they have done." He said committee members had been placed in a position of voting for something that no one had defended to them.

REPRESENTATIVE KERTTULA, in response to a comment by Co-Chair Masek, clarified that [Amendment 2] related to only the language "manufacturing, or processing", not the entire line.

Number 2359

MR. FELLMAN commented that if person who has property with trees on it would be protected, under current law, to cut those trees down, but not to take them to a sawmill to make something useful for the farm. His concern is that people would be piling wood and burning it, instead of running it through a sawmill and using it as a "processed product." A person whose neighbor complained about sawdust on the road wouldn't be covered against a nuisance lawsuit. Mr. Fellman said it is imperative to allow people who have purchased those trees along with their land to make a useful product out of them. He offered his personal belief that the language put in by the Senate is good language that he hopes will remain.

REPRESENTATIVE STEVENS expressed appreciation for Mr. Fellman's comment regarding use of timber on a person's own land.

Number 2454

CO-CHAIR called a brief at-ease at 1:55 p.m. She called the meeting back to order at 2:07 p.m.

A roll call vote was taken. Representatives Kapsner and Kerttula voted for Amendment 2. Representatives Chenault, McGuire, Stevens, Masek, and Scalzi voted against it. Therefore, Amendment 2 failed by a vote of 2-5.

Number 2526

REPRESENTATIVE KERTTULA made a motion to adopt Amendment 3, a handwritten amendment which read [original punctuation provided]:

SB 60

p.2, Line 16

delete:

", or that is used in aquatic farming"

[An additional handwritten amendment on the same handout, never addressed by the committee, was to delete "(ix) aquatic farming;" from page 3, line 6, and renumber accordingly.]

CO-CHAIR MASEK objected to Amendment 3.

REPRESENTATIVE KERTTULA explained that fish farming is not allowed in [Alaska]. Nor is this part of anything contemplated by either [Alaska's] the original Right-to-Farm law or the right-to-farm laws she has looked at with regard to other

states; she surmised it might exist in states that allow finfish farming, however. She pointed out a further complication: one addition to the law at this point is that an agricultural operation won't be a nuisance, regardless of subsequent expansion of the facility; therefore, a person could have a very small site expand into something that is "huge."

Number 2584

CO-CHAIR SCALZI spoke against the amendment, noting that "we" had just gone through considerable public condemnation of expanding the aquatic farming in Kachemak Bay, and are currently dealing with a mariculture issue in Southeast [Alaska]. He said he thought it was appropriate that ["aquatic farming"] was included in the bill.

CO-CHAIR SCALZI agreed finfish farming does not exist in Alaska and that salmon farming is against the law. However, he said he "tends to think" about the mariculture and shellfish farming. For example, he is aware of approximately 14 farm sites in Kachemak Bay that could use protection because of the pressure that exists to remove them.

CO-CHAIR SCALZI concurred, however, with Representative Kerttula's concern about expansion. He referred to page 1, line 14, of the bill, which reads, "on the site regardless of any subsequent expansion". He said it is a sensitive issue; he added, however, that a farm could not be expanded without the concurrence of DNR and ADF&G.

Number 2653

REPRESENTATIVE KERTTULA responded:

I really hear those concerns, and I think that they're well taken, but this is really [an] inappropriate vehicle for them. ... They're under separate statutes, but now you're starting to call them an agricultural operation. And it really is mixing apples and oranges, not to mention fish, and trees, and things like that. So ... I'd be real open to working on that or getting legislation drafted; I just think they don't belong in this particular piece of legislation.

Number 2688

CO-CHAIR SCALZI said he appreciated Representative Kerttula's remarks, and in some regards he wished there were [other legislation]. On the other hand, he stated the following:

I think that mariculture is certainly an agricultural industry, and that it's a very viable one. And I can speak very clearly to the pressure that's put on ... mariculture farms in the bay right now, because there was a loud vocal majority that banned jet skis in the bay, also, and personal watercraft, and ... it was something that I thought, "This is the kind of thing that they need protection against."

All of a sudden, you have an influx of individuals who say that, for no biological reason, they want to ban something; the numbers are there to boot them out. And I think that this does offer some protection to those individuals who have invested a lot of money and time in an operation that I certainly do consider along the agricultural lines. So, I respectfully disagree.

Number 2735

REPRESENTATIVE McGUIRE noted that she chairs the [Administrative] Regulatory Review Committee, and aquatic farming is a central issue. She told Representative Kerttula she has high regard for her. She indicated aquatic farming is alive and well, however, and referenced the Aquatic Farming Act [not made available in committee packet]. Representative McGuire said, "We do need to start to think about them as a unit."

REPRESENTATIVE McGUIRE offered her belief that [aquatic farming] is a viable part of agriculture, and that inserting it into this legislation gives that concept a strong recognition. She added that it is different from a fish farm. She spoke of potential, noting that Canada and Washington State have diversified their economies through the development of aquatic farming. She concluded that it is a "valuable part" that should be reflected in "this overarching bill relating to agriculture."

Number 2820

MR. FELLMAN responded that there was a time when there was no rabbit farming or fox farming. Excluding the farming of sea

urchins, for example, would cut off part of the industry. He emphasized the need to keep aquaculture in the bill.

A roll call vote was taken. Representatives Kapsner and Kerttula voted for Amendment 3. Representatives Chenault, McGuire, Stevens, Masek, and Scalzi voted against it. Therefore, Amendment 3 failed by a vote of 2-5.

Number 2900

REPRESENTATIVE KERTTULA offered that she had spoken with the House sponsor and knows the intent is to protect farms, whether aquatic or land-based, from encroachment now.

CO-CHAIR MASEK thanked Representative Kerttula but reminded her that the bill under discussion was the Senate version.

Number 2950

REPRESENTATIVE MCGUIRE moved to report CSSB 60(JUD) am [as amended] out of committee with individual recommendations and the accompanying fiscal note.

Number 2969

REPRESENTATIVE KERTTULA objected, explaining that [HB 82] is a "much better vehicle, more cleanly drafted"; therefore, she would prefer to see it moved.

A roll call vote was taken. Representatives Chenault, McGuire, Stevens, Masek, and Scalzi voted to move out of committee CSSB 60(JUD) am [as amended]. Representatives Kapsner and Kerttula voted against it. [A small portion was not on the tape, but a written roll call sheet recorded the votes.] Therefore, HCS CSSB 60(RES) was moved out of the House Resources Standing Committee by a vote of 5-2.

[Co-Chair Masek turned the gavel over to Co-Chair Scalzi.]

CONFIRMATION HEARING

Commercial Fisheries Entry Commission

TAPE 01-31, SIDE B

Number 2965

CO-CHAIR SCALZI brought before the committee the confirmation of the appointment to the Commercial Fisheries Entry Commission of Bruce Twomley.

Number 2905

BRUCE TWOMLEY, Appointee to the Commercial Fisheries Entry Commission (CFEC), came before the committee. He stated that he knew most of the committee members and had had the privilege of working with some of them. He would not take up time with a statement, but would welcome questions from the committee.

Number 2875

REPRESENTATIVE KAPSNER stated that she wholeheartedly supports Mr. Twomley's nomination. She indicated that she has worked with him for the last two years on a bill. She said she knows Mr. Twomley has helped many people in her region work with the IRS (Internal Revenue Service) to ensure that their boats and permits were not seized, and she greatly appreciates all of his work.

Number 2718

REPRESENTATIVE GREEN asked Mr. Twomley about some words out of existing code. From the statute that establishes the commission, he read: "The purpose of this chapter is to promote the conservation and the sustained yield managed by the Alaska's fisheries resources and the economic health of the commercial fishing of Alaska." He asked Mr. Twomley if he felt "we" have accomplished both ends of that.

Number 2685

MR. TWOMLEY emphasized that [the Limited Entry] Act provides limited tools; within that authority, he believes the CFEC has done everything possible to serve those goals. He clarified that those stated purposes are the requirements for limiting a fishery; unless [CFEC] can demonstrate, for the record, that one of its limitations will serve those two purposes, [CFEC] cannot undertake a limitation.

MR. TWOMLEY, in response to a further question by Representative Green, said [CFEC's] only real authority is to limit the number of participants. Regarding that limitation, in every fishery there's a grandfathering system. Historically, there are always more people eligible to apply for limited entry permits than

places available - even though the number of places available is generous because [CFEC] is required by law to make it the highest number of units of gear in one of the last four years before limiting.

MR. TWOMLEY explained that [CFEC's] job is to rank the applicants under a point system to ensure that the individuals who most need the available permits get them. His job primarily consists of writing the legal opinions that determine whether somebody gets the permit.

MR. TWOMLEY noted that the Act does address adjusting fleet size. He indicated the state supreme court has said that if a fishery becomes too exclusive, more permits must be "added back into the water, by selling them." The Act also calls for a buy-back program, and it addresses the taxing of fishermen to raise the money to buy back permits. He expanded on that:

The AG [attorney general] determined, some years ago, that that part of the Act was broken; because it was a dedicated fund, you couldn't raise money in that fashion. ... [It] raised a couple of other questions. That's a fairly fixable element of the Act; but we're in the process of trying to fix that and consulting with fishermen and trying to come up with a proposal. And in the process, the supreme court said, "Wait a minute."

[There's] a case called the Johns' (ph) case. ... There's ... a tension in the constitution between all of these open-fishery clauses and the limited entry authorization clause. And in view of that tension, the only way to resolve it is to ensure that limited entry impinges on opened entry as little as possible. ...

I think you can see the implications of that holding for an attempt to reduce a fleet size. You could ask the state to spend money, or tax fishermen to spend money [and] buy back a bunch of permits; but at the point that you get to a point where it actually makes a difference - people's lives improve because the economics have improved - you could back yourself into this constitutional issue that could require you to put more permits back into the water. And we don't have a good solution to the problem, and it's made

fixing the buy-back portion, I think, an almost insurmountable task.

Number 2477

JIM COLIER, testifying via teleconference, stated that he'd spoken to Mr. Twomley, who said he took an oath to uphold the constitution. Mr. Collier said he'd found numerous occasions where "they" have violated the constitution. He expressed his belief that it is not right that he should have to take him into court because he violates the constitution, when he already took an oath to uphold it.

MR. COLIER continued:

Also, he wrote it on his shrimp-point rationale here that ... only persons who legally commercially harvested shrimp ... caught here in Southeast fisheries during 1991-95 would be eligible to apply to a limited entry permit. Well, I brought this to his attention and ... he wrote back to me that he did not want to discuss this. I had to go to the ombudsman to get an answer from him, and he seems to worm away from that. I don't think this is right when "commercially harvest" means the lawful ... taking and selling of shrimp.

Number 2390

MR. TWOMLEY responded that he had spent a lot of time on the phone with Mr. Colier discussing the issues. He said "we've addressed it formally" and Mr. Colier went to court to challenge [CFEC's] decision; that "came to an end."

MR. TWOMLEY told the committee that the nature of limited entry is that it is controversial. The commission is in the realm of decision-making that former Governor Hammond described as, "You can achieve a balanced decision in this process, but only if you offend everybody at least a little bit." Mr. Twomley stated his belief that [CFEC] has won some general acceptance for fairness, but individuals can complain and always have something about which to complain.

CO-CHAIR SCALZI announced the end of public testimony.

Number 2342

REPRESENTATIVE GREEN mentioned the supreme court and buy-backs. He asked Mr. Twomley what that number would be.

MR. TWOMLEY answered that [CFEC] doesn't have an opportunity to determine the optimum number for a fishery - which would be the "triggering" number for a buy-back program, if it were lower than the number of units of gear. He defined "optimum number" as that which is just right for the economics, biology, and management of the fishery. [Determining an optimum number] is a difficult task. The optimum number chosen for the sablefish fishery is currently being challenged in court, for example; it will be interesting to see the outcome and to discover how the court views that process.

Number 2274

REPRESENTATIVE GREEN remarked that the issue is of concern to many [legislators] who don't have many commercial fishermen in their districts, but who do have personal-use fisheries, for example. He asked Mr. Twomley if he knew when a decision might be reached in the lawsuit.

MR. TWOMLEY replied that this particular lawsuit is just getting started in superior court; if it goes to supreme court, it could take three years.

REPRESENTATIVE GREEN noted that to an outsider, when there apparently are too many boats in the water for the number of fish, the logical answer is to reduce the number of boats so that the remainder could have a better livelihood. He said that is obviously too simple.

MR. TWOMLEY replied that in response to a request from the governor and salmon fishermen, [CFEC] produced an outline of options for fleet reduction. It addresses federal and state buy-backs, as well as a catalogue of every idea "we've" ever heard of for fleet reduction, including the following: ideas that would require the board's action; ideas that would require legislation; and some ideas that would vary from year to year. The resulting publication is available to fishermen. Although no one has picked up an options yet, he stated his belief that [the publication] has helped advance the discussion; he offered to work through it with anyone who is interested.

REPRESENTATIVE GREEN thanked Mr. Twomley and expressed interest in receiving a copy of the publication.

Number 2172

CO-CHAIR SCALZI agreed the follow-up information will be helpful. He reminded the committee that HB 206 would be heard soon; it addresses a new form of license limitation and the limited entry plan, which is currently under lively debate.

Number 2159

REPRESENTATIVE KAPSNER moved to forward the name of Bruce Twomley [to the joint session for consideration of appointment to the Commercial Fisheries Entry Commission]. [There were no objections.]

HB 216-BD OF FISHERIES MEETINGS/EMERGENCY ORDERS

CO-CHAIR SCALZI announced the next order of business would be HOUSE BILL NO. 216, "An Act relating to the emergency order authority of the commissioner of fish and game and to meetings of the Board of Fisheries." [The bill was sponsored by the House Resources Standing Committee.]

Number 2113

REPRESENTATIVE McGUIRE made a motion to adopt the proposed committee substitute (CS), Version L [22-LS0774\L, Utermohle, 4/6/01], as a work draft. [No objection was stated.]

CO-CHAIR SCALZI explained the changes to subsection (d) [page 3 of Version L]. He reminded members that at the previous hearing, concern was expressed by the Alaska Department of Fish and Game (ADF&G) that the language in Section 2, subsection (d) [of the original bill], which is the "meat" of the bill, was too broad; the commissioner believed this language would put undue pressure on him to make changes and regulatory amendments regarding the Board of Fisheries that he felt would compromise that board's authority.

CO-CHAIR SCALZI reported that the language [in Version L] was run by the department, and that work was done with the department's legal counsel, Lance Nelson. Language was arrived at that seemed palatable to all: the new language in subsection (d). He asked Mr. Nelson to comment.

Number 2031

LANCE NELSON, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, testified via teleconference. He pointed out that [subsection (d)] doesn't address biological emergency situations. Rather, it is targeted to address a situation in which there is a possible lost harvest. Therefore, Mr. Nelson said he doesn't believe the language changes the current law, under case law, regarding biological emergency situations.

MR. NELSON told members he believes, however, that it codifies current case law, as expressed in the Peninsula Marketing Association [v. Rosier] case that the [Alaska] Supreme Court decided in 1995, although he believes it makes it even more specific regarding exactly what the commissioner needs to do, based on new information.

Number 1973

CO-CHAIR SCALZI responded that the intent is to allow the commissioner, in extreme cases, to be able to open a fishery previously closed by the board under a regulatory action or management plan; if all criteria in subsection (d) have been met, then the commissioner may be able to open up a fishery. Certainly, under a biological emergency, the commissioner now has authority to close a fishery; that was never a question, but there was a question regarding the ability to open a fishery.

CO-CHAIR SCALZI further explained that the intent is to remedy a problem that occurred in Cook Inlet and "potentially Area M or any other area that has ... subsequent closures to it right now, that under the management plan cannot be opened." He asked whether there were questions or comments regarding subsection (d); none were offered.

Number 1895

DOUG MECUM, Director, Division of Commercial Fisheries, Alaska Department of Fish and Game, came forward to testify, noting that also present were Gordy Williams, ADF&G's legislative liaison; and Diana Cote, executive director of the Board of Fisheries.

MR. MECUM advised members that he had nothing to add regarding subsection (d), except to say [Co-Chair Scalzi] had characterized very well their discussions on the ability to come to some accommodation on the language. He also concurred with the Department of Law that it clarifies existing

responsibilities and authorities between the board and the commissioner. Mr. Mecum added, "We don't believe that it does upset the balance of power between the board and the department that's outlined in statute and in law. We believe that the earlier version did, and we expressed that concern to you."

CO-CHAIR SCALZI voiced his appreciation to the [ADF&G] and the Department of Law for working on this. He informed listeners that [Version L] had been faxed to Dan Coffey, chairman of the Board of Fisheries, who had indicated he would send Co-Chair Scalzi written comments, both his own and perhaps those of other board members.

Number 1782

CO-CHAIR SCALZI turned attention to Section 3, regarding the board's "agenda-change request language." He noted that at the last hearing, the department indicated no problem with that language. However, Mr. Nelson had suggested an amendment to it. [Amendment 1] read:

This subsection does not restrict the board's authority to schedule and consider regulatory changes as reasonably necessary for coordination with federal fishery agencies, programs, and laws.

CO-CHAIR SCALZI explained that [Amendment 1] would clarify that if the board needs an agenda change regarding the North Pacific [Fishery] Management Council (NPFMC) or some other federal entity, it may change its agenda to do so. He said it isn't necessary, but if the Department of Law feels comfortable with it, he has no objection. In response to a question from Representative Green, he specified that Amendment 1 would be added following the last paragraph of Section 3 [page 3 of Version L].

Number 1700

REPRESENTATIVE McGUIRE made a motion to adopt the foregoing as Amendment 1.

CO-CHAIR SCALZI asked Mr. Nelson whether Amendment 1 satisfies the department as far as any "future ties on their agenda" regarding federal and state meetings.

MR. NELSON answered that he believes it does.

MR. MECUM expressed support for Amendment 1.

Number 1610

CO-CHAIR SCALZI asked whether there was any objection to Amendment 1. There being no objection, Amendment 1 was adopted.

CO-CHAIR SCALZI turned the committee's attention to the main language in Section 3.

Number 1592

MR. MECUM noted that the commissioner, in previous testimony, said he didn't have any particular problems with that part of the bill. Mr. Mecum told members:

We stated our preference that if the legislature was going to adopt legislation that sort of directed how the ... Board of Fisheries set their agendas and developed standards for that, that those standards and that direction be, most appropriately, directed to the Board of [Fisheries] themselves.

This particular version does set up a little bit of a tension between the department and the Board of Fisheries on issues related to conservation issues, in terms of changing their cycle. And I think you can appreciate the fact that whether or not we agree with what the board has done in the past, in terms of taking things up out of cycle or not, the responsibility, the blame, the credit, whatever, has rested with the board. And after all, this is the board setting their own agenda.

We also did say that our preference would be that the board would listen to the department's advice, would defer to the scientific judgment of the staff - their staff - on issues of conservation. But under the current laws, under their current regulations, they don't have to do that.

This would, in fact, require a concurrence by the commissioner, by the department, on issues of conservation, prior to the board being able to take up an issue out of cycle, and where it would apply ... is, essentially, in the instances of the public bringing forward an agenda-change request.

It wouldn't restrict, obviously, the department's ability to bring one forward; it wouldn't dictate that the board take it up; it wouldn't stop the board from developing their own agenda-change requests, nor would it stop the board from changing their schedule, in any way, to deal with any issue that they thought was appropriate. So it's very limited in ... scope. But as you can see - and I think you can appreciate it - it does set up a little bit of a different playing field.

CO-CHAIR SCALZI said that certainly is the intent.

Number 1428

JERRY McCUNE, United Fishermen of Alaska, came forward, stating support for Version L. Regarding the agenda-change request, he told members it addresses only "the public's section" regarding an agenda-change request. Mr. McCune explained, "All we're asking for is a little bit of proof when you bring an allegation [regarding] a conservation issue before the board." He said it doesn't mean the board cannot take up a conservation issue, nor that the public cannot bring that issue [before the board].

MR. McCUNE noted that the scientists in charge of most conservation issues are in the department, rather than on the board; he suggested there should be some concurrence that there is a problem, between the department and the board, in order [for the public] to bring something like that forward. Regarding subsection (d), Mr. McCune said he could think of only rare instances in which the commissioner would have to do that, such as when a fish run would be bigger than expected and, therefore, the fishery might have to be opened in order to harvest some "leftover fish." Mr. McCune added that he doesn't foresee that happening often, if ever.

Number 1293

SUE ASPELUND, Executive Director, Cordova District Fishermen United, testified via teleconference in support of HB 216. She praised Section 3 as "a very important piece of work" that goes a long way towards restoring the public's confidence in the board process because it mandates that the board must rely on its scientific professionals.

Number 1254

DAN WINN, Commercial Fisherman, testified via teleconference in support of HB 216. He told members he had assumed the commissioner could [open a fishery] now because [the commissioner] could, in the past, close down a fishery. Mr. Winn expressed surprise that 20 million pink salmon - about the number caught last year by seiners in Southeast Alaska - went up the rivers in the Cook Inlet drainage. In his 30 years in Cook Inlet, he had never before seen that many fish of one species.

CO-CHAIR SCALZI asked whether anyone else wished to testify; there was no response. He closed the public testimony.

Number 1126

CO-CHAIR MASEK asked Mr. Mecum how many emergency openings, in the course of an average fishing season, have been needed to allow people to catch more fish. She also requested clarification about the department's view of the bill.

MR. MECUM replied that for emergency orders issued [by ADF&G], there have been 500 to 1,000 each season; it doesn't vary much from year to year. He restated that [the department] believes the bill, in its current construction, is essentially a clarification of existing responsibilities and authority that the commissioner has. [The department] had thought the previous [version] went too far, upsetting the balance of power between the department and the Board of Fisheries in that it would also [ADF&G] to supersede regulations that might deal with allocation issues. Mr. Mecum explained, "We testified that we didn't want to have any part of that; we don't want to be the Board of [Fisheries]." He specified that his comments applied to Sections 1 and 2, not Section 3.

Number 0796

CO-CHAIR MASEK made a motion to adopt Amendment 2, which read [original punctuation provided]:

Page 3 Line 3:

To add after under this section to **close a fishery, or** allow or extend a fishing season.

Re-number accordingly

Number 0732

JENNIFER YUHAS, Staff to Representative Beverly Masek, Alaska State Legislature, explained that Amendment 2 came about because of an understanding that the commissioner is already allowed to open or close a season, and that the bill doesn't speak to both of those duties.

CO-CHAIR SCALZI responded that it was clear that the commissioner could close a fishery, but the question was whether the commissioner could open one. He deferred to ADF&G regarding whether Amendment 2 adds any significant change to the concept of the bill.

Number 0674

MR. MECUM restated his belief that [Version L] already addresses the issue. He referred to page 3, subsection (d), and pointed out that it says "notwithstanding (a) of this section". Furthermore, subsection (a) is [AS] 16.05.060, the existing authority of the commissioner, which basically says "nothing in this section restricts the commissioner's ability to summarily open or close seasons for the purposes that are set out in statute." He cautioned that it might confuse the issue.

MR. NELSON also expressed concern that Amendment 2 might present an issue with the language a couple of lines down [Section 2, subsection (d), page 3, lines 5-7], which read, "The commissioner may exercise authority under this subsection only upon a determination that the basis for the board's regulatory provisions can be adequately addressed."

MR. NELSON explained that the language was crafted to address a situation in which there is a conservative board regulation and a more liberal "EEO" that is being contemplated for opening of a fishery, despite a restrictive board regulation. He cautioned that changing that language to address closures as well as openings may place extra obstacles when there are emergency conservation situations.

CO-CHAIR SCALZI asked whether there could be a negative effect from closing a fishery.

MR. NELSON said he wasn't absolutely sure, but that he worried about it. The language was crafted to address the possibility of a lost harvest. He suggested perhaps further review would be required.

Number 0283

CO-CHAIR SCALZI stated his intent to move the bill forward and proposed that the research could be done in the interim. He then specified that he objected to Amendment 2 at this time.

REPRESENTATIVE MCGUIRE asked for clarification about why there should be a different standard for a closure versus an opening.

MR. MECUM restated his belief that Version L deals with the issue of closures, and doesn't change that in any way. The Department of Law is saying here that it may confuse things, he pointed out, because in order to enact a closure, a determination must be made relative to what the board has already done. By contrast, the existing statute in no way limits the commissioner's power to close a fishery for conservation purposes. Mr. Mecum acknowledged that [Amendment 2] is somewhat confusing in that regard.

MR. MECUM read from page 3, line 3, as it would read with Amendment 2: "under this section to close a fishery, or to allow or extend a fishing season". He commented that the whole sentence is aimed, again, at the issue of opportunity, so that an allowable harvest would not be forgone. It does seem a little bit out of place there, he remarked. He reiterated his belief that [Version L] addresses the concern, if the concern is that the commissioner's power to close a fishery is in no way encumbered.

TAPE 01-32, SIDE A
Number 0001

MS. YUHAS told the committee Co-Chair Masek's intent, as sponsor of Amendment 2, was to match the original language, and that Amendment 2 in no way mandates closures by the commissioner. In response to a question from Co-Chair Scalzi regarding whether Ms. Yuhas saw the problem with the way the rest of the bill is constructed, she said she didn't see the problem and believed it matched the existing language.

Number 0189

MR. NELSON, in response to Representative Kerttula, explained that the language in Section 2 provides a safeguard, to a certain extent, by requiring a rationale, as explained by the commissioner, that the commissioner has reviewed the board's more conservative restrictions and finds that those "are

addressed by the current situation" regarding the opening that [the commissioner] is going to issue or a season that [he or she] is going to extend. It puts a premium on conservation. The commissioner would need to make a special determination that conservation will not be endangered.

MR. NELSON explained that it may be a little more restrictive than a "DMA" decision, which won't be based on the facts but will only address a situation in which the commissioner wants to be more conservative than the board. This, by contrast, talks about a situation in which a commissioner wants to be more liberal because of receiving new information that an opportunity will be lost otherwise. Amendment 2, to his belief, would add an extra requirement on the commissioner, even when the commissioner is acting more conservatively, rather than just when the commissioner is going to act more liberally in the face of a conservative board or regulation. If that is the intent, that is fine, he said, and is the legislature's prerogative. But it is a change that would make it narrower.

Number 0499

CO-CHAIR SCALZI explained his objection: From his understanding of [Mr. Nelson's] testimony, [Amendment 2] would make it more difficult to close a fishery than under current law; if there were a challenge, it would have to be done "upon a determination that the basis for the board's regulatory provisions can be adequately addressed" [lines 5-7].

CO-CHAIR SCALZI said if the department couldn't adequately address the provisions but there was a biological need to close a fishery, he would always opt to be more conservative regarding the resource and close the fishery, rather than keeping it open. Furthermore, after listening to legal counsel, he himself believed this would do just the opposite of what the intent is.

Number 0596

REPRESENTATIVE STEVENS spoke against Amendment 2, saying he couldn't see what would be lost by leaving it out.

Number 0625

REPRESENTATIVE GREEN asked Co-Chair Masek whether, having heard from legal counsel that the amendment would make it more difficult, she still wanted to include it.

CO-CHAIR MASEK reiterated her staff's comment that Amendment 2 doesn't mandate a closure and matches existing language. She also stated her own belief that it doesn't make it harder to close a fishery. In further response to Representative Green, she indicated she was contesting the attorney's view.

A roll call vote was taken. Representative Masek voted for Amendment 2. Representatives Green, McGuire, Stevens, Kapsner, Kerttula, and Scalzi voted against it. [Representatives Fate and Chenault were not present.] Therefore, Amendment 2 failed by a vote of 1-6.

REPRESENTATIVE MCGUIRE remarked during the vote that she wanted to study Amendment 2 in the interim "to see if the difference is really what they say."

Number 0820

REPRESENTATIVE KERTTULA made a motion to move CSHB 216 [version 22-LS0774\L, Utermohle, 4/6/01, as amended] out of committee [with individual recommendations and the attached zero fiscal note].

CO-CHAIR MASEK objected.

A roll call vote was taken. Representatives Green, McGuire, Stevens, Kapsner, Kerttula, and Scalzi voted to move the bill out of committee. Representative Masek voted against it. [Representatives Fate and Chenault were not present.] Therefore, CSHB 216(RES) was moved out of the House Resources Standing Committee by a vote of 6-1.

ADJOURNMENT

CO-CHAIR SCALZI recessed the House Resources Standing Committee meeting at 3:20 to a call of the chair, with the meeting scheduled to resume at 5 p.m. the following day.