

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

February 9, 2004

9:02 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Peggy Wilson, Vice Chair  
Representative Dan Ogg  
Representative Ralph Samuels  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Cheryll Heinze  
Representative Les Gara

**OTHER LEGISLATORS PRESENT**

Representative William K. Williams

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 34

Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Agriculture to establish terminal markets in Alaska for all covered commodities including salmon.

- MOVED CSHJR 34(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 410

"An Act relating to the administration of commercial fishing entry permit buy-back programs."

- MOVED HB 410 OUT OF COMMITTEE

HOUSE BILL NO. 409

"An Act relating to the maximum length of salmon seine vessels; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 34

SHORT TITLE: FED TRAINING AND ASSISTANCE FOR FISHERMEN

SPONSOR(S): REPRESENTATIVE(S) OGG BY REQUEST OF SALMON INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, L&C  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124

BILL: HB 410

SHORT TITLE: ENTRY PERMIT BUY-BACK PROGRAM

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS BY REQUEST OF SALMON INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, RES, FIN  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124

BILL: HB 409

SHORT TITLE: SEINE VESSEL LENGTH

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS BY REQUEST OF SALMON INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, RES  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124

**WITNESS REGISTER**

MELISSA DOVER, Staff  
to Representative Dan Ogg  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HJR 34 on behalf of Representative Ogg, sponsor by request of the Joint Legislative Salmon Industry Task Force.

MATT PANCRATZ, Commercial Salmon Fisherman  
Homer, Alaska

POSITION STATEMENT: Testified on HJR 34 and HB 410.

MARK VINSEL, Executive Director  
United Fishermen of Alaska (UFA)  
Juneau, Alaska

POSITION STATEMENT: Spoke in favor of HJR 34.

TIM BARRY, Staff  
to Representative William K. Williams  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented HB 410 and HB 409 on behalf of Representative Williams, sponsor by request of the Joint Legislative Salmon Industry Task Force.

MARY McDOWELL, Commissioner  
Commercial Fisheries Entry Commission (CFEC)  
Alaska Department of Fish and Game (ADF&G)  
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 410.

DOUG MECUM, Director  
Division of Commercial Fisheries  
Alaska Department of Fish & Game (ADF&G)  
Juneau, Alaska

POSITION STATEMENT: Answered questions about HB 409.

GERALD McCUNE, Lobbyist  
for United Fishermen of Alaska (UFA)  
Cordova, Alaska

POSITION STATEMENT: Originally had supported HB 409, but voiced several concerns about the bill.

SCOTT McALLISTER, Seiner  
Juneau, Alaska

POSITION STATEMENT: Testified in favor of HB 409.

BRUCE WALLACE, Purse Seine Vessel Owner  
Ketchikan, Alaska

POSITION STATEMENT: Testified in favor of HB 409.

DAVE AUSTERBACK, Member  
Sand Point Advisory Committee (SPAC)  
Sand Point, Alaska

POSITION STATEMENT: Testified in opposition to HB 409.

JOHN FOSTER, President  
Sand Point Advisory Committee;  
Member, Board of Directors  
Peninsula Marketing Association  
Sand Point, Alaska

POSITION STATEMENT: Testified in opposition to HB 409.

TIM MOORE, Seiner  
Homer, Alaska

POSITION STATEMENT: Spoke about HB 409 not having much relevancy for his area; spoke in favor of the 66 percent vote.

**ACTION NARRATIVE**

**TAPE 04-4, SIDE A**

Number 0001

**CHAIR PAUL SEATON** called the House Special Committee on Fisheries meeting to order at 9:02 a.m. Representatives Seaton, Wilson, Ogg, Samuels, and Guttenberg were present at the call to order. Also in attendance was Representative Williams.

HJR 34-FED TRAINING AND ASSISTANCE FOR FISHERMEN

Number 0042

CHAIR SEATON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 34, Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Agriculture to establish terminal markets in Alaska for all covered commodities including salmon. [The resolution was sponsored by Representative Ogg by request of the Joint Legislative Salmon Industry Task Force.]

Number 0108

REPRESENTATIVE OGG moved to adopt the proposed committee substitute (CS), Version 23-LS1408\S, Utermohle, 2/3/04, as a work draft. [No objection was stated, and Version S was treated as adopted.]

Number 0180

REPRESENTATIVE OGG moved [to adopt Amendment 1], on page 3, line 9, to delete "salmon". He said it was a typographical error.

CHAIR SEATON asked about the effect of removing it on page 3, but not in the title [page 1, line 6].

Number 0235

REPRESENTATIVE OGG said he'd amend Amendment 1 to also delete "salmon" from [page 1, line 6, in the title]. The "Resolved" section was to expand the resolution to include all commercial fishermen; the first part addresses just the salmon industry. He explained that he was trying to get the U.S. Department of Commerce to establish a Trade Adjustment Assistance program for commercial fishermen across the spectrum, as seen in the fourth "Resolved" [page 3, lines 7-9].

REPRESENTATIVE OGG said he'd remove his original [Amendment 1] and restate it as follows:

Page 1, line 6  
Delete the word "salmon"  
Page 3, line 9  
Delete the word "salmon"

Number 0369

CHAIR SEATON asked if there was any objection to adopting [the new] Amendment 1. There being no objection, it was so ordered.

Number 0413

MELISSA DOVER, Staff to Representative Dan Ogg, Alaska State Legislature, explained the changes to Version S. On page 2 of the original resolution, lines 17-19 were deleted because the coordinating "Resolved" statement had been previously removed, and [lines 17-19] were accidentally left in, she said. On page 2 [of the original resolution], line 24, after the first "years", she said the words "due to import-related price fluctuations" were added. And [on page 2, line 24] after the [second] "years", the words "due to loss of market caused by import-related price fluctuations" were added.

MS. DOVER, in response to a question from Chair Seaton, clarified that the changes in Version S were on page 2, lines 21 and 22; those changes were made to make [the language] specifically related to imports.

Number 0625

MS. DOVER said in the original resolution, on page 3, lines 7-9 were deleted. She said it ended up being a very complicated issue when it was discovered that it was impossible to establish terminal markets in Alaska.

Number 0679

MS. DOVER pointed out that in Version S on page 3, lines 7-9 were added to request that the U.S. Department of Commerce pursue the establishment of a TA [Trade Adjustment] program that is specific to commercial fishermen, because the current TA program was designed for farmers.

Number 0772

MATT PANCRATZ, Commercial Salmon Fisherman, mentioned that he'd heard retraining was the goal for fishermen who've suffered from the loss of market price. He said the fishermen and processors in Cook Inlet don't have the money for their occupations. He asked if the legislature would consider providing funds to help fishermen create a better product, rather than spending the money on retraining.

CHAIR SEATON responded that the resolution does have a provision for the [United States] Department of Agriculture (USDA), program, as well as the [United States] Department of Labor (USDOL) program. The USDA program is the cash payment to fishermen, based on the depressed prices or losses from competition with imported products, he explained, and the (USDOL) program is the retraining money.

Number 0976

REPRESENTATIVE WILSON commented that over the weekend she'd talked to someone involved with the university who was excited by the numbers of fishermen who were taking classes to enhance their fishing businesses.

CHAIR SEATON noted that last year, legislation was passed that allowed processors to take a tax credit on their corporate taxes for investments in value-added products; small operations were included. He said [this resolution relates to] a federal program, and the legislature doesn't have a lot of influence on the way the federal program allocates money; however, the intent, as stated by Representative OGG, is to ask for a "fisherman-specific program, instead of just shoehorning fishermen into the agricultural program." He said he hoped to

discuss some of the issues brought up by Mr. Pancratz in negotiating for the fishermen's program.

MR. PANCRATZ remarked that he believed the committee had addressed most of the difficult issues.

CHAIR SEATON asked Mr. Pancratz to keep his eyes open for other legislation coming up.

Number 1180

MARK VINSEL, Executive Director, United Fishermen of Alaska (UFA), spoke in favor of HJR 34. He said, "I also think that the resolution addresses the concerns that we heard the most from, both from fishermen, directly, and through the Farm Service Agency and marine advisory program that are implementing the program."

Number 1232

REPRESENTATIVE GUTTENBERG asked if the retraining and relocating programs were designed to take fishermen out of the industry indirectly and then shut it down.

MR. VINSEL responded, "I don't think that it's necessarily the intention of the program to reduce the number of commercial fishermen." He spoke about the technical-assistance part of the program, which includes information on improving quality and diversification in order to remain in the [fishing] business. He continued:

The retraining is part of the [U.S.] Department of Labor program that is provided in the USDA program to people who qualify for the cash benefits. One of the points of the resolution is to apply that retraining assistance even to fishermen who don't qualify for the cash, under the understanding that everybody is affected by the increased imports. And, in my mind, and I believe it's in the spirit of the program that it should be allowing that retraining benefit to people that are salmon fishermen because the salmon is a commodity that's been affected by imports as they determined in the petition certification.

Number 1354

MR. VINSEL explained that relocation is one aspect of the normal USDOL TAA program not provided in this. The fishermen who qualify [under this TAA program] are eligible for retraining, but not the relocation aspect. He added:

In general, I think the spirit of the program is to allow farmers to continue to farm. The way I look at these price support programs is, it's to help retain a industry sector of small individual farmers, or in our case, fishermen, as the heart of the nation's food supply, which I think is a good goal because it keeps a diversified food supply for the country, not in the hands of just a few.

Number 1413

CHAIR SEATON drew attention to the letter from UFA in support of HJR 34. He asked Mr. Vinsel if the UFA agreed with Amendment 1.

MR. VINSEL said yes.

CHAIR SEATON noted that the USDOL program, although it conjoins with the USDA's, also exists independently; fishermen can qualify if they were working for a processor that applied separately. Even if [fishermen] weren't eligible for the USDA program, they could qualify for the USDOL training program.

Number 1510

CHAIR SEATON asked if anyone else wished to testify. He then closed public testimony.

REPRESENTATIVE OGG complimented UFA and Mr. Vinsel for their work on HJR 34. He also commended Chad Padgett from the USDA for his hard work on the resolution.

Number 1583

REPRESENTATIVE WILSON moved to report CSHJR 34, Version 23-LS1408\S, Utermohle, 2/3/04, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 34(FSH) was reported from the House Special Committee on Fisheries.

HB 410-ENTRY PERMIT BUY-BACK PROGRAM

[Contains discussion relating to SB 315, the companion bill]

CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 410, "An Act relating to the administration of commercial fishing entry permit buy-back programs."

Number 1625

TIM BARRY, Staff to Representative William K. Williams, Alaska State Legislature, introduced HB 410 on behalf of Representative Williams, sponsor by request. He explained that Representative Williams was asked by the Joint Legislative Salmon Industry Task Force and the Commercial Fisheries Entry Commission (CFEC) to sponsor this legislation, which gives CFEC more options for funding and managing fishing permit buy-back programs.

Number 1709

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish and Game (ADF&G), spoke in favor of HB 410 as an additional step to help facilitate fleet consolidation. She said the bill makes minor but potentially useful amendments to the existing statute that governs the state-run, fishermen-funded buy-back program. She provided background about the existing statute as follows:

When a fishery first comes under limited entry, the law directs CFEC to establish a maximum number of permits, then rank the eligible applicants and issue that maximum number of permits. But it also contains a provision known as the "optimum number provision" that provides for subsequently changing the number of permits and adjusting the number of permits that are in a fishery. That "optimum number provision" directs us to establish what the optimum number of permits would be, which is a complicated look at the economics of the fishery and the forecast of fishery strength, fish prices, and so on.

If, in determining the optimum number, we determine that there are too few permits in the fishery, the law provides that the commission shall issue additional permits into the fishery at fair market value, to make sure that that fishery does not become too exclusive and thereby become unconstitutional. If the conclusion is that there are too many permits in the fishery, then the statute sets up this buy-back provision that would develop a program; then you seek

willing sellers, permit holders who are willing to sell out of the fishery, and you reduce the number of permits down to the optimum number.

MS. McDOWELL continued:

To date, there has never been a buy-back run by the state; partly, that's because there's never been an optimum number determination that a fishery warranted that kind of a buy-back. And also, even if there had been, the original statute, as it was designed, had some flaws in it, the major one being that the funding mechanism that was in that statute created an unconstitutional dedicated fund, and the legislature corrected that problem and a few others in that statute with legislation two years ago.

So now, the buy-back provision is technically usable, but it's still largely impractical. And this bill is meant to take one step towards ... adding a little more flexibility, ... [making it] more practical to use if circumstances arise that it would be warranted.

Number 1878

MS. McDOWELL explained that the current statute authorizes [CFEC] to establish an assessment of up to 7 percent of ex-vessel earnings as the funding source for buy-back. The money would be collected by the Department of Revenue to be put in the general fund for the legislature to appropriate into the buy-back fund. The CFEC could then use the money to buy back permits, a few at a time, or allow the money to accumulate and do a substantial buy-back, she said. Either way, it would take a long time, could be self-defeating, and would be difficult to reach the program's goal.

MS. McDOWELL discussed the purpose of HB 410: to allow the state to be in a better position to do an effective buy-back. She said it retains the current funding approach as one available option, but also adds language that opens the possibility of using another funding source to initially fund the buy-back and then assess the earnings of fishermen to pay back any obligated portion, such as a loan.

MS. McDOWELL emphasize that, in itself, the bill doesn't create a new funding source, but does position the state to utilize other funds to jump-start a buy-back. She listed examples of

upfront funding sources such as a federal or state appropriation, a private-sector loan, or a court settlement, sources of money available on the condition that at least a portion of it be paid back.

MS. McDOWELL explained that the bill [positions the state to use other sources of funding] by changing the language about when the assessment of fishermen would end. Under the current law, the buy-back program and assessment stop when the number of payments in the fishery has reached the optimum number. The bill amends [the buy-back program] slightly to allow for either [the current] process, when the assessment ends when the optimum number is reached, or [the new process], when the obligation to repay any upfront funding is fulfilled. Although it isn't known whether the upfront money will become available for fishery buy-backs, it puts the state in a better position to make use of that opportunity if it does come along. She reiterated that CFEC supports HB 410.

REPRESENTATIVE WILSON asked if the bill was "putting things in place if something happens to come by, and right now there isn't anything waiting in the wings."

MS. McDOWELL replied that was correct.

Number 2158

CHAIR SEATON asked if the main crux of the bill started on the bottom of page 1, line 14, "including repayment of any debt the commission was authorized to incur to capitalize the buy-back fund for the fishery".

MS. McDOWELL replied that it did, but also critical was the removal of language on page 2, line 2 ["THE BUY-BACK PROGRAM FOR A FISHERY SHALL TERMINATE WHEN THE NUMBER OF ENTRY PERMITS FOR THE FISHERY IS REDUCED TO THE OPTIMUM"].

Number 2179

CHAIR SEATON asked if the words "authorized to incur to capitalize" refer to a separate legislative Act.

MS. McDOWELL pointed out that it would be an appropriation. She said if there was a source of federal money, for example, the legislature would have to authorize CFEC to set up a buy-back program with the money.

CHAIR SEATON clarified that if there is a capital source that the legislature authorizes to go forward, the bill allows the repayment of those funds.

Number 2227

REPRESENTATIVE SAMUELS asked: If the state chose to issue a revenue bond to be repaid by the 7 percent, to buy back a certain number of permits, would it have to keep collecting until the revenue bond is paid off?

[Ms. McDowell nodded in affirmation.]

REPRESENTATIVE SEATON asked who determines the optimum number.

MS. McDOWELL said CFEC does.

REPRESENTATIVE SEATON inquired on what basis the optimum number was determined, and if it was based on economic and biological factors.

MS. McDOWELL replied that it was. She cited a current study of optimum numbers in the Bristol Bay drift gillnet salmon fishery and explained factors involved; she said it's a matter of finding a balance. She noted that the statute used to say, "optimum number"; however, it was extremely difficult to pick only one number. Two years ago the legislature made several amendments to that statute, and the definition was changed to "optimum number range", which allows for fluctuation in the variables.

Number 2319

REPRESENTATIVE SAMUELS asked if the price for the buy-back would be at market value.

MS. McDOWELL replied that the price would have to be determined through work with a fleet that was going to be bought out. She surmised it would be somewhat higher than fair market value for the permit because the boat would be put out of business, and boats in the fleet [would be] devalued without compensation. She said there could be a bid process, but [CFEC] had never done one and would have to figure out what method would work best.

Number 2384

REPRESENTATIVE WILSON asked: As HB 410 is written, would CFEC have to come before the legislature for approval if a pot of money became available?

MS. McDOWELL answered that she believed there would only need to be an appropriation; the money would come to the state, and the legislature would have to appropriate it to the commission for this purpose.

Number 2416

CHAIR SEATON asked if the optimum study included the differential in the value of the permits and the higher price for permits, or just whether they are at the optimum number instead of a larger number.

MS. McDOWELL said the study looks at the right number of permits - not at the permit value, but at earnings.

CHAIR SEATON suggested economic factors should be considered, especially when considering the value of the permit.

MS. McDOWELL noted that debt load is one research factor. She said she didn't know if research is considering future debt loads if the buy-back hikes the prices of the permits. Making the point that debt loads are based on higher prices already, she used the example of Bristol Bay, where permits were bought at high prices and are now valued much lower. She remarked, "Given the current salmon price situation, it would be hard to imagine that permit values will ever get back, even after buy-back, to what they were at their peak."

Number 2561

CHAIR SEATON asked if Ms. McDowell could have the CFEC research staff look into it. He asked if the "old system" required the buy-back to include boats and gear. He mentioned that only permits are included in the buy-back now.

MS. McDOWELL replied that only transferable limited entry permits are included in the state's buy-back program.

CHAIR SEATON offered, "This makes a huge difference because, before, a person might own permits in several areas, but they wouldn't be able to sell a permit in one area without selling their boat and gear."

Number 2606

REPRESENTATIVE GUTTENBERG questioned the stability of the assessment.

MS. McDOWELL said, "The statute says that the money you collect from buy-back is for the purpose of funding a buy-back in that given fishery." She asked Representative Guttenberg if he was suggesting all fishermen be assessed.

REPRESENTATIVE GUTTENBERG said no, he was asking if, in any given fishery, an assessment is done, and, over the years, [the amount] can be looked at as cash flow. He asked if that data could be used to borrow against for a loan.

MS. McDOWELL replied that [CFEC] has not looked at that.

REPRESENTATIVE GUTTENBERG said the funds would still have to be appropriated for [CFEC] to spend them.

MS. McDOWELL replied:

The commission does not have the ability to collect funds itself; only the Department of Revenue can do that, which is one of the things the legislature fixed in the buy-back a couple of years ago. The statute used to say CFEC shall collect money and fund a buy-back, which makes a dedicated fund, which is unconstitutional. So, the legislature two years ago changed that to say the money is collected from the fish tickets and doesn't come directly to us.

The revenue department collects it, puts it in the general fund, and then [the legislature] added the language "the legislature may appropriate." It works the same way as the ASMI [Alaska Seafood Marketing Institute] 1 percent marketing tax, the 2 percent salmon enhancement tax, where [the Department of Revenue] collects it from fish tickets. The legislature has the power to appropriate it.

Number 2721

MARK PANCRATZ, Commercial Salmon Fisherman, suggested that there be a specific timeframe, such as two years, for the buy-back.

CHAIR SEATON said he believes the bill does allow for capitalization so that [permits] can be bought up at one period of time.

MR. PANCRATZ asked how the optimum number of permits is determined and how long the buy-back time period lasts.

CHAIR SEATON answered that the specific buy-back program would deal with those questions, and the bill was general legislation that authorizes another way of funding the buy-back.

MR. PANCRATZ said he was hoping that time would be taken into consideration so the buy-back program would not go on indefinitely and become ineffective.

CHAIR SEATON added that if there was a buy-back, there would be public hearings to determine specifics for each fishery.

CHAIR SEATON asked whether anyone else wished to testify. He then closed public testimony.

Number 2888

REPRESENTATIVE OGG moved to report HB 410 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 410 was reported from the House Special Committee on Fisheries.

#### HB 409-SEINE VESSEL LENGTH

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 409, "An Act relating to the maximum length of salmon seine vessels; and providing for an effective date."

Number 2925

TIM BARRY, Staff to Representative William K. Williams, Alaska State Legislature, introduced HB 409 on behalf of Representative Williams, sponsor by request of the Joint Legislative Salmon Industry Task Force. Mr. Barry explained that the bill was discussed in the "production subcommittee" and by the task force as a whole to give the [Board of Fisheries] and Alaskan fishermen another tool to diversify and increase the value of their products.

MR. BARRY emphasized that this bill doesn't eliminate the 58-foot length limit on salmon seiners. He said as far as he

knows, this is the only commercial boat limit enshrined in statute. The Board of Fisheries has authority to impose or change length or gear limits on commercial fishing boats. If the bill became law, the Board of Fisheries would still go through the public process before changing the length limit. He pointed out that HB 409 says at least 66 percent of the entry permit holders must favor the adoption of the regulation.

**TAPE 04-4, SIDE B**

Number 2998

MR. BARRY referred to an opinion from Legislative Legal and Research Services written by George Utermohle that says the 66 percent vote requirement might be unconstitutional. He also brought attention to the zero fiscal note from the Alaska Department of Fish & Game (ADF&G). Noting that HB 409 says the Board of Fisheries would conduct the vote of permit holders, he said he'd like Mr. Mecum [from ADF&G] to address the possible extra expense to conduct a referendum.

Number 2947

REPRESENTATIVE GUTTENBERG asked about the history of the 58-foot length requirement.

MR. BARRY said he didn't know the entire history, but had been told it predated statehood.

CHAIR SEATON added that it was a long and bitter history.

Number 2865

DOUG MECUM, Director, Division of Commercial Fisheries, Alaska Department of Fish & Game (ADF&G), testified as follows:

With regard to the 58-foot limit, if there were any, say, fishery management or conservation issues associated with repealing that by the Board of Fisheries, I guess we feel like we could adequately address those through that public process. The other issues associated with it are really socioeconomic issues, allocation issues, and, of course, that's what the board deals with all the time. So, we don't have any issues with that part of the bill.

MR. MECUM reported that ADF&G submitted a zero fiscal note because it didn't know whether there would ever be a cost. He

said there were only five or six seine fisheries in the state that meet every three years, and it would entail a minimal cost.

Number 2816

MR. MECUM wondered, from a process standpoint, if "a regulation adopted by the board to authorize the use of a vessel" would become valid only after the vote took place. He said the way the Board of Fisheries works now, the proposal gets submitted by the public or by the department, and then the board considers it and goes through the Administrative Procedure Act. If [the board] adopts the regulation, it is drafted by ADF&G and submitted to the Department of Law, which makes changes and sends it to the lieutenant governor for signature; it becomes law 30 days later.

MR. MECUM said it is a unique situation whereby the board goes through the public process; if [the regulation] is adopted into law, it then can be invalidated by a vote. He felt that [the invalidation process] might be the issue [Legislative Legal and Research Services] is raising, as well.

Number 2761

REPRESENTATIVE WILSON asked Mr. Mecum to explain the reasoning behind the 66 percent vote requirement.

MR. MECUM replied that it was a longstanding provision and that there are a lot of fishing regulations tied to it. He said the board used the [66 percent] limit to create slower-paced fisheries. He opined that the concern involves the allocation issues, and offered an example:

If there were 400 seiners and only about 200-220 were actively fishing, and the board was considering repealing [an authorization to use a vessel longer than 58 feet], there would be concerns from some members of the fleet about people coming in with bigger boats. You could have a permit and no boat, and then you could just fish your permit on that larger boat, some boat from outside or inside Alaska.

MR. MECUM said he thinks fishermen are torn on this issue and concerned about their ability to compete. He added that the task force wanted a supermajority of [permit holders] to support it.

Number 2661

REPRESENTATIVE WILSON asked whether it is typical that a fisherman might want to do something on board that is value-added like [adding a] freezer, but lack the room.

MR. MECUM answered in the affirmative, adding that having more room is one impetus suggested by [fishermen]. He said another forthcoming bill dealt with the idea of fishermen's ability to "do something more with the fish" such as value-added processing.

Number 2599

CHAIR SEATON suggested the length could be 90 feet or longer for volume processing, not just an increase [to] 65 feet or so.

REPRESENTATIVE SAMUELS asked if there were also gear restrictions included in the 58-foot limitation.

MR. MECUM replied in the affirmative. He said the [increase in boat length] doesn't require a change in the size of the net used. He mentioned remote fisheries in the Aleutians, False Pass, Southeast Alaska, and Kodiak that are catching a lot of fish and having to offload them to a tender. With a larger vessel, they wouldn't have to offload because they could pack more fish. He reiterated that concerns with particular fisheries could be dealt with by the Board of Fisheries process.

Number 2477

REPRESENTATIVE OGG mentioned that the Bristol Bay fishery was currently under regulation for 32-foot [vessels]. He asked about the history, including whether there had been any proposals to make changes, and what, if any, impacts the proposals had.

MR. MECUM said it was a good question; many times over the years people have proposed changes to the vessel length limit in Bristol Bay, as recently as a few months ago. The Board of Fisheries rejected those proposals.

Number 2422

REPRESENTATIVE OGG asked about the conservative nature of the board's response to the proposals.

MR. MECUM said he believes it relates to socioeconomic issues, the allocation issues, where local people don't have the capital to invest in a larger boat or have just bought a new boat.

REPRESENTATIVE OGG wondered about comments from the board on other gear types, supportive or not.

MR. MECUM asked if Representative Ogg was still asking about Bristol Bay.

REPRESENTATIVE OGG said yes.

MR. MECUM mentioned setnets and driftnets, but said he couldn't remember the various comments from the board members.

Number 2325

REPRESENTATIVE WILSON asked if gillnetters and trollers had no limit on boat lengths.

MR. MECUM said that was correct. Noting that Mr. Barry had given a good summary, he said there are other vessel length limits such as in the scallop fisheries, but no limits other than practical limits on gillnetters and trollers, or even on seiners.

CHAIR SEATON mentioned tuna seiners in the 140- to 160-foot range in Alaska years ago that were tendering, but not seining.

MR. MECUM, in response to a question from Representative Samuels, said, "There are a variety of vessel length limits scattered throughout the regulations for different purposes, but this is the only one, that I'm aware of, that's in statutes."

Number 2181

GERALD McCUNE, Lobbyist for United Fishermen of Alaska (UFA), said originally his agency supported HB 109, but there was some confusion: some thought every permit holder would vote, while others thought just seiners would vote. He said fishermen who own two different-sized boats who want to consolidate their operations and save money have been trying to make this change for a long time. He explained that he doesn't see a big change with this bill because some fishermen are locked into the size of their boats. Suggesting that getting seiners together for a vote may be a problem, he remarked, "A lot of guys in Prince William Sound don't want it." He closed by saying some

fishermen would prefer that a public hearing with the Board of Fisheries take the place of voting.

Number 2047

REPRESENTATIVE WILSON asked if 66 percent is a realistic number.

MR. McCUNE replied that many people are comforted knowing that most of the [boat owners] in the area support this change. Some people think votes shouldn't be taken to change statute, and others think it shouldn't be in statute, but should be in regulation. He added that he's still awaiting the [UFA] board's decision on whether to proceed with a vote.

CHAIR SEATON asked if there was any controversy within the [UAF] board about decreased value of 58-foot boats if Canadian ex-drum seiners are brought into the U.S. market.

MR. McCUNE said there was some concern, but drums couldn't be used, even if the 58-foot limit were changed. He reiterated that he didn't predict a big change due to this bill.

Number 1857

CHAIR SEATON asked if it was Mr. McCune's understanding that the purpose of the bill was to allow seiners to haul more fish.

MR. McCUNE replied that if the only reason for the bill was to increase the volume [of fish], that would be a poor business plan because most seiners operate under limits, especially for pink salmon, and so a bigger boat won't solve their problems. Many would like to process on board and need a bigger vessel because fish, once cleaned, can't go in RSW [refrigerated saltwater]. The boats out westward are looking to consolidate their business, he added.

CHAIR SEATON surmised that the committee would hear from those fishermen.

Number 1745

REPRESENTATIVE OGG mentioned that Mr. McCune had said there'd be a vote before going to the board, but offered his own reading that the regulation would be adopted and then voted on.

MR. McCUNE acknowledged that he might have had it backwards.

Number 1690

REPRESENTATIVE OGG stated concerns: the focus on the vote, the testimony from Bristol Bay, and knowing the concerns and nature of salmon fishermen. He said the issue of allocation starts to play into it. Saying he thought the intent of the Joint Legislative Salmon Industry Task Force was to add flexibility to the fishing industry so it could adapt, he expressed concern that the 66 percent vote, given what he said is the conservative nature of fishermen and the fisheries, empowers the minority to stop flexibility.

MR. McCUNE reflected that he didn't have a position at this time. He said he was still waiting to hear from the board. Some think the vote should be taken out, and others are comfortable with it, he noted. He agreed the salmon task force came up with a high threshold, but said it could be changed by these discussions.

Number 1481

CHAIR SEATON asked how votes taken with regard to previous tax bills were structured.

MR. McCUNE replied that the aquaculture tax had to be a vote of the permit holders in the area conducted by the regional hatchery; it was a majority vote.

CHAIR SEATON asked if other restructuring bills had the 66 percent vote.

MR. McCUNE said he wasn't sure.

Number 1381

SCOTT McALLISTER, Seiner, spoke in favor of HB 409. He said he has felt for years that the 58-foot length limit has restricted the quality of his business. He emphasize how important it was to get the [issue] to the Board of Fisheries. He noted he was a big fan of the Board of Fisheries process whereby fishermen have the access to regulation and can take control of fisheries in ways that are meaningful to them. He said he believes this bill works as part of that process.

REPRESENTATIVE OGG asked Mr. McAllister how he felt about the 66 percent vote requirement.

MR. McALLISTER answered that he didn't think it was necessary and had never seen the board move brashly and go against the majority. He felt decisions were best left up to the board.

Number 1184

REPRESENTATIVE SEATON asked Mr. McAllister what size of vessel he needs to accomplish the operations he referred to earlier.

MR. McALLISTER replied that he had a design in his head; he described his current boat and said there is plenty of room on a 58-foot boat to handle the largest legal purse seine allowed in Southeast Alaska. He'd like at least another 10 feet forward of the current well deck, the working deck. He explained that he has "big-gulped" 30,000-40,000 pounds [of fish] and, in a few minutes, turned around and got more. Volume is the goal, he explained. He needs the room to slow down and turn the volume into quality. He explained how he would create a value-added fish hold with the extra 10 feet, and how he then wouldn't have to deliver the fish "in rigor."

MR. McALLISTER explained that the bulk of salmon are harvested by seiners who have to deliver "abused" fish. Using the extra 10 feet, he would sort, hydrate, and bleed the fish, and store them in a chilled environment, thus avoiding any abuse to the fish. He said his goal is to deliver a quality fish, similar to farmed fish, and not crude "h & g" [headed and gutted] fish. In reply to questions from Chair Seaton, Mr. McAllister said space is the requirement he doesn't have now; he needs another apparatus to bring the fish out of the water and elevate them. Chances are, his sets would be the same size, but the pace would slow down. [The added space] would allow him to be market-driven.

Number 0586

BRUCE WALLACE, Purse Seine Vessel Owner, testified in favor of HB 409. Concurring with Mr. McAllister's ideas, he emphasized that seine fishing is essentially volume-driven; the extra 10 feet would slow down the process and take some of the volume away, but the loss of volume would be made up in quality. Agreeing that [the 58-foot limit] ought to be extracted from statute and put into regulation, he also agreed with the need for change, with the desire to have the vote at a 51-percent majority, and that it has to go through the board process.

Number 0098

DAVE AUSTERBACK, Member, Sand Point Advisory Committee (SPAC), noting that he has been in the fish seine business for 40 years, said he believes the 58-foot limit has worked well.

**TAPE 04-5, SIDE A**

Number 0001

MR. AUSTERBACK said the 58-foot limit has slowed down fisheries, which he supports. Many 58-foot boats in his area are already being widened. As a marine vessel surveyor, he spoke of the value, practicality, and stronger stability of 58-foot boats. He said because quotas are small, hauling [volumes] of fish isn't an issue with SPAC. Furthermore, the 58-foot limit protects coastal community fisheries, where people want to process on shore because of a lack of market opportunities. He said his area is still volume-oriented, with a few value-added programs. Not personally a strong supporter of the board process because of political motivation and ever-growing restrictions, he noted that SPAC supports the 66 percent vote.

Number 0440

CHAIR SEATON asked Mr. Austerback to explain the relationship between the groundfish fisheries and the 58-foot [limit].

MR. AUSTERBACK explained that his area has a state water groundfish fishery that takes place seven days after the federal fishery; the only vessels that can participate are 58 feet and under.

CHAIR SEATON asked if the state water groundfish fishery would have to be changed for the fleet in Mr. Austerback's area to participate if the boats were longer than 58 feet.

MR. AUSTERBACK answered in the affirmative. In reply to a question from Representative Wilson, he said his area was currently involved in value-added processing and in new market areas in the salmon fishing industry.

REPRESENTATIVE WILSON offered her understanding, "Because you want to be able to use your same boat in the other fishery, if this was available, most of you wouldn't take advantage of it."

MR. AUSTERBACK replied no [they wouldn't take advantage of it].

Number 0662

JOHN FOSTER, President, Sand Point Advisory Committee; Member, Board of Directors, Peninsula Marketing Association, spoke if decreased value of boats if HB 409 passes. He said a smaller net won't work on a larger vessel. Volume is not a problem in his area. He did see a problem with the effects on state water groundfish fisheries if the limit size is changed. Asking whether the 66 percent vote requirement was for all permit holders or just seine permit holders, he pointed out that there are three types of gear in his area but 75 percent are gillnetters. Saying the driftnetters and gillnetters won't vote for the seiners to have larger boats, he predicted court battles over this issue.

Number 0860

CHAIR SEATON explained that the way the bill is set up, the vote is 66 percent of the fishery, by gear type.

MR. FOSTER asked if it applies just to seiners.

CHAIR SEATON said that is correct.

MR. FOSTER added that many UFA board members have not been contacted about the bill, and he suggested that be done.

CHAIR SEATON replied that UFA was listening and had heard Mr. Foster's comment.

Number 0967

REPRESENTATIVE WILSON asked if Mr. Foster's area would not take advantage of HB 409 either.

MR. FOSTER replied no. He explained that the majority of the money to his area comes from bottom fishing.

CHAIR SEATON asked Mr. Foster whether his biggest concern, if the 58-foot length were eliminated, would be a big push to eliminate the 58-foot restriction for the state water fisheries, which is where the fleet derives its largest percentage of income now, even though those same vessels fish for salmon.

MR. FOSTER replied yes. He said he didn't see [fishermen] in his area cutting themselves off from the state water fishery.

CHAIR SEATON acknowledged the arrival of Representative Williams, sponsor of HB 409.

Number 1138

TIM MOORE, Seiner, spoke about Prince William Sound and the few opportunities for high-grade salmon there. Noting that the majority of the fish are pinks and chums, he predicted that it would be more likely for boats to team up [rather than for fishermen to increase the length of their boats]. He said the value-added idea doesn't apply much to his area, and the consolidation of vessels doesn't apply to his area due to the small number of permits and small harvest. The reality is that some [boats] may be put out of business in the attempt to have better-quality fish if larger boats are used. He said with the 66 percent vote, however, the chance of that happening was slim. He stated support for the 66 percent vote because of the benefit to individual areas.

CHAIR SEATON thanked participants. [HB 409 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 10:54 a.m.