

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

April 14, 2004

8:40 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Cheryll Heinze
Representative Dan Ogg
Representative Ralph Samuels
Representative Les Gara
Representative David Guttenberg

MEMBERS ABSENT

Representative Peggy Wilson, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 322

"An Act relating to the rate of the salmon enhancement tax."

- MOVED SB 322 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 347(RES)

"An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 322

SHORT TITLE: SALMON ENHANCEMENT TAX

SPONSOR(S): SENATOR(S) STEVENS B BY REQUEST OF SALMON INDUSTRY
TASK FORCE

02/11/04	(S)	READ THE FIRST TIME - REFERRALS
02/11/04	(S)	L&C, FIN
02/24/04	(S)	L&C AT 1:30 PM BELTZ 211
02/24/04	(S)	Heard & Held
02/24/04	(S)	MINUTE(L&C)
03/02/04	(S)	L&C AT 1:30 PM BELTZ 211

03/02/04 (S) Moved SB 322 Out of Committee
 03/02/04 (S) MINUTE(L&C)
 03/03/04 (S) L&C RPT 3DP 1NR
 03/03/04 (S) DP: BUNDE, SEEKINS, STEVENS G;
 03/03/04 (S) NR: FRENCH
 03/23/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/23/04 (S) Heard & Held
 03/23/04 (S) MINUTE(FIN)
 03/29/04 (S) FIN RPT 3DP 4NR
 03/29/04 (S) DP: WILKEN, BUNDE, STEVENS B;
 03/29/04 (S) NR: GREEN, DYSON, HOFFMAN, OLSON
 03/29/04 (H) FIN AT 9:00 AM HOUSE FINANCE 519
 03/29/04 (S) Moved SB 322 Out of Committee
 03/29/04 (S) MINUTE(FIN)
 04/05/04 (S) TRANSMITTED TO (H)
 04/05/04 (S) VERSION: SB 322
 04/06/04 (H) READ THE FIRST TIME - REFERRALS
 04/06/04 (H) FSH, FIN
 04/14/04 (H) FSH AT 8:30 AM CAPITOL 124

BILL: SB 347

SHORT TITLE: COMM. FISHING MORATORIA, INCL. AK GULF
 SPONSOR(S): SENATOR(S) STEVENS B BY REQUEST

02/16/04 (S) READ THE FIRST TIME - REFERRALS
 02/16/04 (S) RES
 03/03/04 (S) RES AT 3:30 PM BUTROVICH 205
 03/03/04 (S) Heard & Held
 03/03/04 (S) MINUTE(RES)
 03/05/04 (S) RES AT 3:30 PM BUTROVICH 205
 03/05/04 (S) Moved CSSB 347(RES) Out of Committee
 03/05/04 (S) MINUTE(RES)
 03/08/04 (S) RES RPT CS 3DP 2NR NEW TITLE
 03/08/04 (S) NR: OGAN, LINCOLN; DP: WAGONER,
 03/08/04 (S) STEVENS B, ELTON
 03/08/04 (S) FIN REFERRAL ADDED
 03/09/04 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/09/04 (S) Moved CSSB 347(RES) Out of Committee
 03/09/04 (S) MINUTE(FIN)
 03/10/04 (S) FIN RPT CS(RES) 3DP 4NR
 03/10/04 (S) DP: WILKEN, BUNDE, STEVENS B;
 03/10/04 (S) NR: GREEN, HOFFMAN, OLSON, DYSON
 03/22/04 (S) TRANSMITTED TO (H)
 03/22/04 (S) VERSION: CSSB 347(RES)
 03/24/04 (H) READ THE FIRST TIME - REFERRALS
 03/24/04 (H) FSH, RES, FIN
 03/29/04 (H) FSH AT 9:00 AM CAPITOL 124

03/29/04 (H) Heard & Held
03/29/04 (H) MINUTE(FSH)
04/05/04 (H) FSH AT 9:00 AM CAPITOL 124
04/05/04 (H) Heard & Held
04/05/04 (H) MINUTE(FSH)
04/14/04 (H) FSH AT 8:30 AM CAPITOL 124

WITNESS REGISTER

CHERYL SUTTON, Staff
to the Joint Legislative Salmon Industry Task Force
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 322 on behalf of Senator Ben Stevens, sponsor, who chairs the Task Force.

SUE ASPELUND, Federal Management Research Coordinator
Office of the Commissioner
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Related that CSSB 347(RES) most closely reflects the status quo in the fishery, which is what is trying to be achieved by the proposed moratorium.

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

POSITION STATEMENT: Reviewed HCS CSSB 347, Version W.

HERMAN SAVIKKO, Fish Biologist
Alaska Department of Fish & Game
Juneau, Alaska

POSITION STATEMENT: During the discussion of SB 347, answered questions.

JEFF STEPHAN
United Fishermen's Marketing Association (UFMA)
Kodiak, Alaska

POSITION STATEMENT: Expressed UFMA's preference for CSSB 347(RES).

DUNCAN FIELDS
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, expressed concerns.

MICHAEL MARTIN, commercial fisherman
Kodiak, Alaska

POSITION STATEMENT: During the discussion of SB 347, testified in support of the moratorium for vessels but not captains.

ALEXUS KWACHKA, commercial fisherman
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, testified in opposition to the moratorium and the skipper portion of the legislation as well.

ROBIN CLARK
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, strongly endorse the status quo for cod fisheries.

DONNIE LAWHEAD, JR., commercial fisherman
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, testified in opposition to a moratorium in the groundfish fisheries.

JULIE KAVANAUGH
Kodiak, Alaska

POSITION STATEMENT: Expressed concerns with regard to SB 347.

JULIE BONNEY
Alaska Groundfish Data Bank
Kodiak, Alaska

POSITION STATEMENT: Testified that the Alaska Groundfish Data Bank supports CSSB 347(RES).

AL BURCH, Executive Director
Alaska Draggers Association
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, expressed the need for stability in the commercial fishing industry.

RON PAINTER
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, requested a moratorium for vessels rather than skippers.

SARA HAINES
"Fish Heads"
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, urged the committee to let the realities of economics determine capitalization.

FRANCIS COSTELLO

Kodiak, Alaska

POSITION STATEMENT: As a hired skipper, expressed concerns with SB 347 not having any provisions regarding hired skippers.

SHAUN KOSON

Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, noted his support of open access [to the fishery].

HAROLD JONES

Kodiak, Alaska

POSITION STATEMENT: Expressed concerns with SB 347.

ALAN PARKS

Homer, Alaska

POSITION STATEMENT:

RACHEL BAKER

Alaska Department of Fish & Game

Juneau, Alaska

POSITION STATEMENT: During discussion of SB 347, answered questions.

ACTION NARRATIVE

TAPE 04-21, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 8:40 a.m. Representatives Seaton, Heinze, Ogg, and Samuels were present at the call to order. Representatives Guttenberg and Gara arrived as the meeting was in progress.

SB 322-SALMON ENHANCEMENT TAX

CHAIR SEATON announced that the first order of business would be SENATE BILL NO. 322, "An Act relating to the rate of the salmon enhancement tax."

Number 0059

CHERYL SUTTON, Staff to the Joint Legislative Salmon Industry Task Force, Alaska State Legislature, presented SB 322 on behalf of Senator Ben Stevens, sponsor, who chairs the Task Force. This legislation, she explained, merely adds additional tax rates of 30, 20, 15, 10, 9, 8, 7, 6, 5, and 4 percent to the salmon enhancement tax. She further explained that under current law, commercial salmon interim-use and entry permit holders organized under regional aquaculture associations may vote to tax themselves at the rates of 1, 2, and 3 percent. The collected revenues pass through the Department of Revenue to the Department of Community & Economic Development (DCED) and back out to the regional aquaculture associations in order to fund the operations and programs of those associations.

MS. SUTTON related that SB 322 was introduced because during the interim Senator Ben Stevens chaired the Hatchery Subcommittee of the Task Force during which much concern was related in regard to cost-recovery practices for the hatcheries. Some wanted to have the ability and flexibility to quickly "buy down" their debt service. She highlighted that this is a totally optional tax rate. In response to Chair Seaton, Ms. Sutton confirmed that SB 322 merely changes the tax rates, not the collection procedures or pass-through amounts.

Number 0301

REPRESENTATIVE OGG inquired as to the percentage required to change the aquaculture associations' tax.

MS. SUTTON answered that the statute, AS 43.76.015(a)(1) reads as follows: "it is approved by a majority vote of the eligible interim-use permit (IUP) and entry permit holders voting in an election held under this section in the region;".

CHAIR SEATON mentioned that there have been questions with regard to cost-recovery fish and the high percentage of cost-recovery fish that are taken by some of the hatcheries. Some in the state would rather impose a high total tax and not have cost recovery occur at all. Therefore, the fishermen would be free to catch all of the fish rather than have special harvest areas. This legislation would provide fishermen another option by which they could fund the fisheries without having to segregate the fish.

Number 0426

REPRESENTATIVE OGG moved to report SB 322 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

SB 347-COMM. FISHING MORATORIA, INCL. AK GULF

CHAIR SEATON announced that the final order of business would be CS FOR SENATE BILL NO. 347(RES), "An Act relating to moratoria on entry of new participants or vessels into a commercial fishery; relating to vessel permits for, and the establishment of a moratorium on entry of new vessels into, state Gulf of Alaska groundfish fisheries; and providing for an effective date."

CHAIR SEATON noted that the committee packet should include a number of e-mails, faxes, and letters as well as a revised fiscal note.

The committee took an at-ease from 8:50 a.m. to 8:53 a.m.

Number 0576

REPRESENTATIVE OGG moved to adopt HCS CSSB 347, Version 23-LS1677\W, Utermohle, 4/13/04, as the working document.

CHAIR SEATON objected for discussion purposes.

Number 0650

SUE ASPELUND, Federal Management Research Coordinator, Office of the Commissioner, Alaska Department of Fish & Game (ADF&G), related that if ADF&G had to choose between CSSB 347(RES) and Version W, it would support CSSB 347(RES). The department believes that CSSB 347(RES) most closely reflects the status quo in the fishery, which is what is trying to be achieved by the proposed moratorium.

Number 0702

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game, reminded the committee that CSSB 347(RES) created a moratorium on the entry of new vessels into the ground fisheries in the Gulf of Alaska (GOA). Version W, in an attempt to address concerns heard [at the last hearing], proposes a double moratorium. Version W would maintain the moratorium on the entry of new vessels into the ground fisheries in the GOA as well as impose a

moratorium on the entry of new interim-use permit holders. Therefore, Version W would "cap both the vessels and the persons operating the vessels at those who had made any landings at all of groundfish in these areas during the qualifying years." The qualifying years are 1998 through the effective date of the legislation. Version W intends to address the perception that creating a moratorium only on vessels would drive a future limitation program. While [CFEC] doesn't share that view, it understands it. Therefore, Version W would cap everything during the course of the moratorium and research would be done to determine how to propose moving ahead with the future of [the groundfish fisheries.

MS. McDOWELL noted that on page 5, subsection (g) corrects an oversight in drafting. She explained that originally the legislation was drafted such that [CFEC] was authorized to perform capacity restrictions on a vessel permit. Therefore, if one grandfathers in with a certain size vessel, one can't grow into a larger vessel during the moratorium. The aforementioned ability is also provided with a person-based moratorium if one grandfathers into the moratorium by having participated on a certain size boat. Ms. McDowell highlighted that this is an ability available in the limited entry program for person-based permits. Originally, the understanding was that since interim-use permits can already have capacity constraints it would be covered for a moratorium as well. However, that isn't the case because the language in the capacity constraints portion of the "other bill" specifies that a limited entry permit in a limited fishery can have capacity constraints. Therefore, the language "new persons" on page 5, line 9, corrects that oversight.

Number 1083

CHAIR SEATON surmised then that one would have to have both a vessel moratorium permit and an interim-use moratorium permit. He further surmised that an individual who fished on a 35-foot longliner wouldn't be able to be hired on a 50-foot longliner or utilize one of the other moratorium vessels that was a 50-foot longliner.

MS. McDOWELL clarified that [subsection (g) on page 5] doesn't pertain to the groundfish moratorium. In fact, under the groundfish provisions in Version W a person with any participation in any of the groundfish fisheries during the moratorium could qualify to fish any type of gear, area, or vessel size under the moratorium.

MS. ASPELUND turned attention to Section 9 of Version W, which creates the groundfish moratorium. She explained that Section 9 has been restructured such that subsection (a) establishes the moratorium and provides for the extension. Subsection (a) [on page 7, line 12] is equivalent to the old [subsection] (d) in CSSB 347(RES). Subsection (b) is the old [subsection] (k) in CSSB 347(RES), which describes the investigation and evaluation of the permit program that ADF&G and the Board of Fisheries are required to perform during the moratorium. She noted that subsection (b) specifies that any proposals will come before the legislature for any legislation or constitutional amendments necessary to implement [those proposals]. In response to Chair Seaton, Ms. Aspelund pointed out that the January 1, 2011, date is identical to that in CSSB 347(RES). She explained that the moratorium period begins on January 1, 2005, and can proceed for four years to 2008. If [CFEC] finds it necessary, it can be extended for another two years to December 31, 2010, or January 1, 2011.

Number 1323

REPRESENTATIVE OGG referred to page 7, lines 22-24, and asked if the intent is for any proposal during the qualifying years of the moratorium to go before the legislature.

MS. ASPELUND confirmed that Senator [Ben] Stevens expressly requested that language be included.

REPRESENTATIVE OGG posed a situation in which the Board of Fisheries and CFEC decided that it had authority under present regulations.

MS. ASPELUND interjected that in that case, one wouldn't have to come to the legislature. Ms. Aspelund clarified that the language [on page 7, lines 22-24] refers to any proposal that can be accomplished under the current regulations and statutes.

CHAIR SEATON posed a situation in which the Board of Fisheries decided it wanted to place a 60-foot limit on Cook Inlet, which doesn't currently have a size limit. He surmised the aforementioned would be permissible at any time without returning to the legislature.

MS. ASPELUND agreed so long as it's within [the Board of Fisheries] existing authority to do so.

Number 1464

REPRESENTATIVE OGG turned attention to page 6, line 29, and requested explanation of subsection (n).

MS. McDOWELL explained that under the current limited entry program, if one establishes eligibility for a permit as a person, all fish ticket data is in the name of the skipper, the IUP holder. Therefore, if CFEC needs to determine whether the individual participated during the period under review for eligibility, it's available on the fish ticket by the skipper's name. She then turned to the case of a moratorium in which a vessel can't participate unless the vessel participated in the fishery during those qualifying years. In such a scenario, if the vessel owner is different from whoever made the landings or the vessel owner has changed since the landings, the vessel owner applying for the use privilege may not have access to fish tickets to prove that vessel participated. Therefore, subsection (n) provides a vessel owner the ability to access the landing records of the vessel in order to prove eligibility for a permit during a moratorium.

REPRESENTATIVE OGG surmised then that the power being given to the commission to declare moratoriums includes the ability to allow vessel owners access to [landing records of their boat] in order to prove their eligibility, if necessary.

CHAIR SEATON pointed out, "The way this is written that is necessary to apply for a vessel permit. So, if participation is required, then no confidential information really needs to be released to the vessel owner. Is that correct?"

MS. McDOWELL confirmed that all that's necessary to prove eligibility is that a landing was made.

CHAIR SEATON expressed the need to be sure that this isn't being opened further than necessary. He related his understanding that the intent is to only release the information necessary to apply, and therefore only the fact that a delivery had been made to the vessel owner would be released. Fish ticket information wouldn't be released at all.

MS. McDOWELL agreed. She added that normally for eligibility people don't need to ask for fish tickets because the ADF&G number is on the fish ticket and CFEC can determine on what vessel it was landed. Therefore, the records would probably only need to be released in a case in which there is a dispute over participation.

Number 1779

REPRESENTATIVE OGG pointed out that Section 10 also deals with this issue, although it cites different statutes.

MS. McDOWELL clarified that what has been discussed [with Section 7(n)] refers to the generic portion of the legislation, which refers to future moratoriums while Section 10 applies specifically to the groundfish moratorium.

MS. McDOWELL continued her review of the legislation with [subsection] (c) of Section 9, which establishes how the person-based moratorium would work. Any landings of any species in any area, using any gear type on any size vessel during qualifying years would make a person eligible to participate during a moratorium. Essentially, a person would have the same choices of participating in any of the fisheries in any of the areas, although new participants wouldn't be allowed. In order to use statewide permits for miscellaneous finfish or sable fish for the species covered by this moratorium, the individual must have an endorsement specifying that he or she is eligible to use his or her permit in the area. Therefore, [subsection (c)] establishes a one-time eligibility application-processing fee of \$50. If an individual is found to be eligible, the person would have to purchase the same IUP permit prior to the moratorium in order to participate in the groundfish fisheries. However, the individual would be authorized to receive an endorsement on his or her permit. She mentioned that the regulations for the statewide permits will have to be changed such that it specifies "these statewide permits are now everything for this period of time, but for the fisheries defined by this moratorium." Ms. McDowell opined that this provides the IUP holders flexibility during the moratorium and provides vessel owners flexibility with regard to who is available to be a skipper. She highlighted that this doesn't divide the IUP holders into individual fisheries as does the vessel moratorium.

CHAIR SEATON noted that currently the Board of Fisheries has regulations with exclusive and superexclusive management areas for say Pacific Cod. He asked if that exclusivity or super exclusivity for Area M, Cook Inlet, Prince William Sound, and Kodiak are based on the permit holder or the vessel.

MS. McDOWELL deferred to Mr. Savikko.

Number 2051

HERMAN SAVIKKO, Fish Biologist, Alaska Department of Fish & Game, explained the every vessel is required to register with the department before going fishing. Therefore, he related his understanding that the vessel would be limited to participation in a specific area. Mr. Savikko confirmed that the aforementioned is the case with the groundfish fisheries now.

CHAIR SEATON related his understanding then that currently an individual participating as a permit holder in a superexclusive area can use another vessel to participate in another exclusive area such as Kodiak.

MR. SAVIKKO agreed that such was his understanding as well.

MS. McDOWELL interjected that the aforementioned wouldn't be impacted by the moratorium.

Number 2112

MS. McDOWELL returned to her review of Version W. She pointed out that in [Section 9 subsection] (f), a \$50 reissuance fee for vessels is added.

MS. ASPELUND noted that although the language on [page 8] lines 21-24 is new language, it's typical language used within a vessel moratorium. She clarified that it means the vessel permit can't be used as collateral.

REPRESENTATIVE GUTTENBERG inquired as to how this deals with federal action.

MS. McDOWELL pointed out that this is the same language used in the current limited entry program and it's meant to protect Alaska's fishing privileges from action by the federal government. In further response to Representative Guttenberg, Ms. McDowell related that the state is continually trying to protect state-issued privileges from the Internal Revenue Service (IRS). Thus far, the state has prevailed in establishing that these [permits] aren't property that can be attached and used as collateral. She noted that this is a use privilege granted by the state, and therefore can be withdrawn by it. It isn't property as recognized under tax codes, she said.

REPRESENTATIVE OGG asked if there was a reason why that particular language wasn't included for individual IUPs.

MS. McDOWELL explained that those are IUPs that are already established in statute. "We're not creating a new kind of permit here, we're just saying who may continue to get those," she further explained.

REPRESENTATIVE OGG related his understanding that it's an endorsement to this permit, which makes it special and different. Therefore, in a sense it's a new permit.

MS. McDOWELL explained that the endorsement will work as an area designation rather than a new permit. The area designation for this endorsement would [apply] statewide, including the GOA. She confirmed that the existing statute already has that for these permits.

Number 2347

REPRESENTATIVE OGG concluded then that this moratorium is creating a new type of permit, a vessel permit, which doesn't exist presently.

MS. McDOWELL replied yes.

CHAIR SEATON turned to page 8, line 25, and surmised that use of the term "permit" throughout the legislation rather than "license" takes care of any possible that the language "A vessel permit" refers to a current CFEC vessel permit rather than a moratorium vessel permit.

MS. McDOWELL agreed. She continued to the next change encompassed in Version W, which can be found on page 9, line 30. She explained that the provision on page 9, line 30, excludes the same fisheries from the person-based moratorium as is excluded from the vessel-based moratorium. If one participates in the Prince William Sound sable fish fishery or any of the halibut fisheries under the federal individual fish quota (IFQ) system, the vessel permit or endorsement isn't necessary to participate.

CHAIR SEATON drew attention to page 9, lines 1-3, which read: "may reissue a vessel permit to another commercial fishing vessel with an overall length that does not exceed the overall length of a vessel that was sunk, destroyed, or damaged by more than 10 percent ...". He pointed out that the aforementioned is a different standard than what's specified at the end of the same paragraph, which read: "... sunk, destroyed, or damaged,

to the extent that the vessel is inoperable for a state Gulf of Alaska groundfish fishery;". Therefore, he expressed concern with the seemingly dual standards.

MS. McDOWELL explained that the 10 percent means that the [overall length of the new] vessel can't exceed the length of the sunk, destroyed, or damaged vessel by more than 10 percent.

CHAIR SEATON questioned why a larger size vessel would be allowed as a replacement if the goal is to constrain growth in the fishery.

MS. McDOWELL answered that if a vessel is sunk or destroyed in the middle of a fishing season, it can be difficult to find another vessel the exact same length. In further response to Chair Seaton, she confirmed that a smaller boat could be utilized as a replacement.

CHAIR SEATON highlighted that by state law the [groundfish fishery] vessel size is limited to 58 feet and that regulation would remain in effect regardless of this moratorium allowing an increase in length by no more than 10 percent when a vessel is sunk, destroyed, or damaged.

MS. McDOWELL agreed that this provision doesn't supersede the Board of Fisheries' regulations.

REPRESENTATIVE GUTTENBERG opined that the provision in Version W would supersede the regulations because it would be in statute.

MS. McDOWELL clarified that this legislation specifies that there can continue to be a moratorium permit, but the Board of Fisheries' regulations would specify that a boat [larger than 58 feet] couldn't be fished in [the GOA].

MS. ASPELUND related that this legislation includes language expressly specifying that nothing in this section will supersede the Board of Fisheries regulations.

CHAIR SEATON surmised that the 10 percent designation is a policy call.

MS. McDOWELL nodded in agreement. She then returned to the review of Version W, and related that most of the provisions make things parallel for the IUP and the vessel permit. She noted that on page 10, lines 7-14, adds the interim-use to the vessel [permit].

Number 2699

CHAIR SEATON returned attention to page 9, line 17, and asked if this provision allows the transfer of the moratorium permit with the vessel.

MS. McDOWELL replied yes.

CHAIR SEATON surmised then that a transfer of that license from a vessel to another vessel would only be permitted if the vessel is destroyed or damaged beyond operability.

MS. McDOWELL replied no. She explained that the provision on page 9, lines 1-6, discusses that a vessel may be reissued if it's sunk, destroyed, or damaged. However, the provision on page 9, lines 17-19, speaks to a situation in which the vessel owner opts to sell the vessel, in which case the vessel may continue to participate in the fishery.

CHAIR SEATON posed a situation in which an individual with a vessel that isn't more than 10 percent larger than an older vessel wants to participate in the moratorium fishery. That individual could purchase the older vessel [with moratorium rights], sink/destroy it, and replace it with a vessel that is up to 10 percent larger. Therefore, a new owner and a new vessel would be brought into the state groundfish fishery. He indicated that the aforementioned is traditionally done.

MS. McDOWELL said she didn't believe it could change size. If a vessel owner opted to sell the vessel, the [moratorium rights] could be transferred to the new vessel. The 10 percent increase in size only refers to a situation in which a vessel [with moratorium rights] is sunk or destroyed.

[Not on tape, but reconstructed from the committee secretary's log notes, was MS. ASPELUND saying that Chair Seaton's example was not how the provisions were intended, and therefore it should be addressed if that is how it will be used.]

TAPE 04-21, SIDE B

CHAIR SEATON asked if the intent of subsection (g) on page 9, line 20, is to allow the open gig fishery.

MS. McDOWELL replied yes. She then continued with subsections (i) and (j), which has to do with moratorium participation not

counting for future use privileges and any permanent limitation program. Subsection (i) flatly prohibits counting moratorium participation for a future limitation program. With regard to subsection (j), Ms. McDowell suggested the following revision [original punctuation provided]:

Page 10, delete lines 22-27 and replace with:

"this section is subject to termination if the commission adopts regulations establishing a permanent limited access program for the fishery under AS 16.43.240 or under law enacted after the effective date of this section. On or after the effective date of regulations establishing a permanent limited access program for that Gulf of Alaska fishery, the moratorium established under this section for the fishery is terminated and the"

MS. McDOWELL explained that subsection (j) attempts to alert people to the fact that the moratorium could be shorter than four years. Subsection (i) alerts people that some consideration may be given to participation during a moratorium in a subsequent limitation. Ms. McDowell encouraged the committee to adopt the aforementioned revision to subsection (j).

Number 2796

REPRESENTATIVE GARA asked if the effect of subsection (j) is to provide CFEC the ability to supersede the moratorium declared in this legislation for any groundfish fishery, gear type, or time period.

MS. McDOWELL clarified that subsection (j) doesn't allow CFEC to supersede the moratorium other than to say that the moratorium could be shorter than four years.

REPRESENTATIVE GARA expressed concern with the legislature rather than CFEC deciding for which fisheries a moratorium should be granted. He asked if subsection (j) allows CFEC to extend the moratorium from what is specified in the legislation or even end the moratorium [earlier than the four years specified].

MS. McDOWELL specified that subsection (j) only applies to the groundfish portion of the legislation. With regard to CFEC being able to do things without returning to the legislature,

the generic moratorium of the legislation provides CFEC with the authority to perform a full analysis. The groundfish portion of the legislation is being created in statute because the Board of Fisheries and ADF&G feel that action must be taken sooner than [CFEC] could do it. Subsection (j) merely informs those participating in the moratorium that if it's found that [CFEC] could limit any of these fisheries under the existing permanent limitation program, that could be done earlier than at the end of the four-year moratorium. Subsection (j) also informs those participating in the moratorium that the legislature could pass another provision that could authorize CFEC to go ahead with a different limited entry program sooner than at the end of the four-year moratorium.

MS. McDOWELL, in further response to Representative Gara, clarified that the generic portion of the legislation doesn't pertain to these fisheries, which are limited under a different subsection. [Subsection (j)] allows the timeframe specified in the legislation to be overridden.

Number 2617

CHAIR SEATON pointed out that subsection (i) specifies that participation of an IUP holder or a vessel during the moratorium can't be used to establish eligibility in the future. However, language on page 9, lines 28-30, specifies that perhaps [participation in the moratorium will be used to establish eligibility]. Chair Seaton opined that part of the reasoning for this moratorium is to prevent a race for the fish. However, the data for the proposal illustrates that there are approximately three times as many vessels and permit holders than are currently participating. Chair Seaton surmised that since what is occurring during the moratorium may be used to establish qualifications for a future program, it's establishing a race for the fish because the clock is starting. Therefore, if one wants to cover his or her potentials, then one should fish in every fishery for which the individual is qualified even if it isn't economic.

MS. McDOWELL acknowledged that this is a very inclusive moratorium. However, she opined that the clock started years ago. In fact, everyone knows that most every fishery will eventually be limited. This was particularly the case with [the groundfish] fishery. Although the aforementioned motivation has been there for years, the number of participants has been steady or declining in most of the fisheries. Ms. McDowell explained that the concern is that if the federal government takes action

in the GOA or the Bering Sea, there could be a rush of new participants, individuals who are excluded from other fisheries.

Number 2449

MS. McDOWELL related that CFEC feels it's critical to inform people that [participation in the moratorium] may or may not count. She reminded the committee that limited entry is only constitutional if it grandfathers people in based on their economic reliance on the fishery. In this case, the moratorium could be six years long. Therefore, when deciding who can have use privileges, a provision specifying that moratorium participation may not count results in the situation of having to grandfather people into permanent use privileges who may not have participated in a decade. The inability to be able to review whether an individual has continually been reliant on a fishery is problematic with regard to maintaining a constitutional, fair, and reasonable program. The language [on page 10, lines 28-30] merely allows the ability, if necessary, to provide people some credit for continued economic reliance when determining permanent privileges.

CHAIR SEATON surmised then that Ms. McDowell is saying that the moratorium may be unconstitutional if [recent economic reliance] isn't counted.

MS. McDOWELL agreed, especially if the moratorium lasts for six years.

CHAIR SEATON announced that this legislation will not be passed out of committee today.

Number 2254

REPRESENTATIVE OGG commented that the last sentence of subsection (j) will ensure that most everyone with a vessel will want to fish because of the chance that the four-year or six-year participation will count. Furthermore, it could allow the fishermen to drag out the process. Representative Ogg opined that without [the last sentence of subsection (j)] it seems to encourage CFEC to act quicker and discourage fishermen from dragging out the process.

MS. McDOWELL said that there are risks on both sides. From CFEC's point of view, it supports "having that door open."

MS. ASPELUND related that [ADF&G] believes that in order to develop the most effective programs possible, the [department] needs the ability to use moratorium landings and participation, if necessary, to design an appropriate program. Furthermore, the [department] is trying really hard to design seamless systems between the federal and state rationalization. There is no desire to be in a position in which [the department] is unable to respond in a way that's most beneficial to the state's residents.

Number 2065

MS. ASPELUND informed the committee that subsection (m) [on page 6, lines 27-28] is the language to which she referred earlier regarding Representative Guttenberg's question. The aforementioned subsection reads as follows: "(m) Nothing in this section limits the powers of the Board of Fisheries or the Department of Fish and Game." She related her understanding that the aforementioned language was carried forward in Section 9, although she couldn't find it. Therefore, she announced her support of an amendment that would include the language [on page 6, lines 27-28] in Section 9.

CHAIR SEATON removed his objection to adopting Version W as the work draft. Therefore, Version W was before the committee.

Number 1997

JEFF STEPHAN, United Fishermen's Marketing Association (UFMA), related the UFMA's preference for CSSB 347(RES). Mr. Stephan informed the committee that he is a member of the Gulf of Alaska Groundfish Fisheries Rationalization Task Force under the Board of Fisheries. Many of the meetings of the aforementioned task force have been related to the general issue of aligning federal management with state management for the GOA groundfish rationalization. He expressed the need for the legislature to act on this matter during this legislative session. The concept of the original vessel moratorium was originally supported and recommended by the [task force] and was subsequently adopted by the Board of Fisheries. He echoed earlier comments regarding the importance of aligning state management [with federal management], to the greatest extent possible, without giving up state jurisdiction.

MR. STEPHAN explained that his interest in this and supporting the moratorium in [CSSB 347(RES)] is to accommodate the interest of state GOA groundfish harvesters. The existing statutes don't

meet the needs of these harvesters nor do they provide the provisions necessary to provide this alignment. If nothing is done and CFEC and the federal government move forward, the people at risk are state residents who may fish exclusively in state waters or have some interest/participation in state and federal waters.

MR. STEPHAN turned to the provisions regarding the permitting of individuals and opined that it creates a closed class of skippers, which may or may not be appropriate. The concern, he related, is that it closes an opportunity for crewmembers to move up to the skipper position. Furthermore, [the permitting of individuals] doesn't enhance the objectives of the original moratorium.

MR. STEPHAN, in response to Chair Seaton, stated that UFMA has about 40 members.

CHAIR SEATON related that the rationale behind [Version W] is that there is a vessel and a permit road. The state is currently constructing its limited entry based on the permit road. There is concern that a vessel moratorium would move down the path of the federal program and there isn't enough time to make the call at this point.

Number 1597

DUNCAN FIELDS noted that the committee packet should include his written remarks and he encouraged the committee to review them. Mr. Fields related his support of the changes encompassed in pages 3-7 of the [Version W], which provides CFEC better authority to impose a moratorium. However, he questioned whether legislative imposed moratoriums are the way to go. Mr. Fields stated that he and his constituency strongly advocate that the imposition of a moratorium be based on individual license holders rather than vessels. Version W encompasses a moratorium based on individual license holders and on vessels. He related his support of Version W as opposed to CSSB 347(RES). He commented that he finds it difficult to understand why ADF&G would continue to support a vessel-based moratorium because it would create the opportunity for absentee ownership and non-Alaskan ownership. If the vessel license limitation path is chosen, someone should advocate for an owner-on-board provision in order to maintain a nexus between the ownership in the fishery and the vessels.

MR. FIELDS highlighted the importance of recognizing that there is a large range of fisheries included in this legislation. Most importantly, in 5 of the 20 groundfish pot fisheries, two different fisheries are being encompassed. Included in those five fisheries is a fishery that occurs when the federal fishery is open, a parallel fishery, and there is a state-water fishery. These two fisheries have different history, gear, and prosecution. There is no relation between the two fisheries other than that they are both managed in state waters. Therefore, Mr. Fields suggested that the department provide information regarding the differences in the state-water fishery and the state parallel fishery for the five pot groundfish fisheries being considered for a moratorium. Mr. Fields informed the committee that his constituency strongly believes that the state-water fishery should be exempt from the moratorium. The state-water fishery was created as an entry-level fishery and in areas such as Cook Inlet the fishery has never fully developed and yet it's being considered for a moratorium. "It's just not the best approach for managing the state waters portion of the pot groundfish fishery," he opined. In conclusion, Mr. Fields stated that this legislation needs a lot of work.

Number 1322

The committee recessed to the call of the chair at 10:04 a.m.

[This is the end of the recording on Tape 04-21, Side B.]

TAPE 04-22, SIDE A

CHAIR SEATON reconvened the House Special Committee on Fisheries at 5:07 p.m. Those present upon reconvening were Representatives Seaton, Heinze, Ogg, and Gara. Representative Guttenberg arrived as the reconvened meeting was in progress.

CHAIR SEATON requested that ADF&G and CFEC review the impetus for this legislation.

Number 0351

MS. ASPELUND highlighted the Board of Fisheries findings relative to this moratorium as well as the "Guiding principles for groundfish fishery regulations." which should be part of the committee packet. Ms. Aspelund communicated the following on behalf of the commissioner of ADF&G and the [chair] of the Board of Fisheries. She related that North Pacific Fishery Management

Council (NPFMC) is expected to take final action on a preferred alternative to rationalize the GOA groundfish fisheries before the end of this year with implementation taking no more than two years. The concern is in regard to the potential for speculative growth and increased pressure to groundfish fisheries in the GOA that could occur in state waters should a federal fisheries harvest rights-based system occur before the imposition of a moratorium on growth or implementation of a rationalization program in state waters. The additional pressures, she opined, will be detrimental to both the fisheries, the resource, and the state. Therefore, [ADF&G] supports the Board of Fisheries request for an immediate imposition of a moratorium on entry of new vessels into the state ground fish fisheries in its 2-23-04 finding. She highlighted (a)(2)-(4) of the Board of Fisheries findings paper.

MS. ASPELUND related that in the past when a fishery has been limited it has resulted in a pattern of speculative growth, which further exacerbates the very problems that the proposed limitation seeks to prevent. She identified some of the problems as increased competition, additional capitalization, decreased economic viability, and localized depletion. The rationalization of the GOA groundfish fisheries has been going on for a decade or more. The level of growth during the development of the halibut and sable fish IFQ fisheries justifies concerns with regard to the need to freeze participation during the development of both the state and federal groundfish fisheries management regimes in order to protect the interest of Alaskans. She identified the interest of Alaskans as follows: increased efficiencies resulting in economic benefits and stability in the fisheries; improved safety and stock conversation; reduced bycatch and gear conflicts; and entry level access to the GOA groundfish fisheries. Therefore, it's important to note that this legislation only seeks to implement a moratorium in an attempt to freeze the status quo in the fishery as it exists today, while all involved examine appropriate programs for a permanent program in the future. She emphasized that the permanent program is not part of this legislation.

MS. ASPELUND then turned attention to 5 AAC 28.089, upon which the Board of Fisheries follows when regulating the groundfish fishery and ADF&G follows in its management. She highlighted numbers (4)-(6), which seem to be particularly germane to this discussion. Numbers (4)-(6) read as follows:

(4) maintenance of slower harvest rates by methods and means and time and area restrictions to ensure the adequate reporting and analysis necessary for management of the fishery;

(5) extension of the length of fishing seasons by methods and means and time and area restrictions to provide for the maximum benefit to the state and to regions and local areas of the state;

(6) harvest of the resource in a manner that emphasizes the quality and value of the fishery product;

MS. ASPELUND concluded, "We believe that rationalization takes us a long ways towards meeting those goals."

CHAIR SEATON asked if the tack was fully utilized for the halibut and sable fish fisheries.

MS. ASPELUND said that she didn't know.

CHAIR SEATON related that the growth pattern and the restriction on the seasons was because there wasn't enough fish to go around. He recalled an earlier comment that there are a number of fisheries for which the moratorium is placed, although the total allowable catch or the guideline harvest isn't being taken. Therefore, he inquired as to the rationale behind implementing a moratorium on fisheries for which there have been attempts to promulgate [regulations] and expand.

MS. ASPELUND deferred to Mr. Savikko.

MR. SAVIKKO answered that for only the Pacific cod, of the five fisheries created by the Board of Fisheries in 1997, the GOA was divided into three sections. The three sections are the eastern, western, and the gulf. The historic patterns in those fisheries were reviewed with interest in developing near-shore fisheries. An allocative structure was developed for each of the areas to allocate 25 percent from the federal fisheries to the near-shore state fisheries. In the eastern region the only area that falls into the aforementioned fishery is Prince William Sound while in the central region the areas of Cook Inlet, Kodiak, and Chignik are included. In the western region the South Alaska Peninsula fell under the fishery. Therefore, 25 percent was taken and a system that can ratchet up was developed. He explained that the ratcheting up would occur depending upon whether the catch allocated could be utilized by the individual. As an individual gained the aforementioned

ability, the individual would receive an annual increase up to a specified cap. The Eastern Gulf, even under the federal fishery, was not that productive. The geographical and topographical aspects of the area make it not very practical, in the case of Pacific cod. In the state fishery [in the Eastern Gulf] it was first allocated at 25 percent. However, there was little interest because of the difficulty in targeting Pacific cod in the area. Therefore, the federal government requested that it be ratcheted down to 10 percent, which resulted in returning some of the fish back to the federal government.

Number 1025

MR. SAVIKKO turned to the Central Gulf of Alaska, and related that Kodiak, Cook Inlet, and Chignik did reach the initial trigger points. Therefore, each of those ratcheted up to a larger percentage of harvest. All areas, save the Cook Inlet area, are at their caps. Presently, Cook Inlet is at 3 percent and it can increase up to 3.75 percent. The [local] biologist believes the 3 percent will be taken this year and expects to reach the 3.75 percent next year. The South Alaska Peninsula has always had its 25 percent. These fisheries, which began in 1997, would run after the parallel fishery. Mr. Savikko explained that the federal government begins these fisheries at the first of the year. For state waters, 0-3 miles, there is a global emergency order, which mirrors whatever the federal government is doing at that time. Therefore, all of the gear allowed under the federal system is permissible in the 0-3 miles during the parallel fishery. During the parallel season, the fishery would run from about January through March and then the federal government would shut its system down. The state, by regulation, would then open all of its fisheries from 24 hours to 7 days after the close of the federal fishery. Most of the state fisheries would run March through December. However, in recent years because of the near-shore location of the stocks and because of the efficiency gains of the fleet, these fisheries have reached the guideline harvest levels (ghl) much sooner than in the past. These fisheries started as an eighty-month fishery and some, such as the Kodiak pot fishery, have decreased to only two weeks. Even areas such as Cook Inlet have reached the ghl. The length of the season has drastically reduced despite the inefficiencies, restrictions, built into the fishery by the Board of Fisheries. Restrictions such as pot restrictions, vessel length restrictions, jig restrictions, and super exclusivity, and irregular exclusivity haven't been successful slowing the race for fish.

MR. SAVIKKO reminded the committee that one of the guiding principles of the Board of Fisheries is to create a protracted season and obtain as much revenue and product from the fish being taken in a season. He related that Cook Inlet went from a 17-day pot season to a 23-day pot season. He explained that in 2003 the fishermen were targeting 720,000 pounds of fish while this year the target is 1.2 million pounds. Although the target for this year is nearly double, it is being taken in only six more days. From a management perspective, it's becoming a bit trickier to obtain the allocative splits in some of the fisheries.

CHAIR SEATON surmised then that in a number [of areas] such as Cook Inlet and Prince William Sound there has been unharvested fish, even in the cod fishery. "And yet, we're proposing a moratorium on entrants into the fishery that is not being taken now," he opined.

MR. SAVIKKO agreed, and pointed out that the only fishery that isn't fully utilized is the Prince William Sound fishery. Even the federal fishery for the Eastern GOA wasn't fully utilized.

Number 1382

CHAIR SEATON inquired as to why a moratorium placing an allocation on all of the fisheries is necessary.

MR. SAVIKKO reiterated that in the Prince William Sound fishery fewer than a half dozen fishermen participate, and therefore there doesn't appear to be a lot of interest in that fishery because those fish are difficult to find and capture. Therefore, a moratorium may be put in place in that fishery when it isn't necessary, but when CFEC does its analysis it can leave [that area] out of any option to move forward because of the lack of necessity.

REPRESENTATIVE GARA returned to the matter of the need for the legislation, and asked what would happen to the fishery, from a conservation standpoint, without the passage of this legislation.

MR. SAVIKKO predicted that if the fish populations remain in the same areas in the same numbers, there will be shorter seasons. The aforementioned has occurred under the current regime. With regard to near-shore stock depletion, he said it's difficult to predict. Continued sampling is done to determine whether a certain stock of fish is being over fished.

REPRESENTATIVE GARA surmised then that without the passage of this legislation, the approach would be to limit the season to harvest approximately the same amount of fish as would be taken in a longer season with fewer fishermen.

MR. SAVIKKO clarified that ADF&G can't limit the season. He explained that the season is opened when the Board of Fisheries mandates it to be opened. The department tries to manage to the target, poundage, whatever time it takes the fishermen. As the period gets shorter, it becomes more difficult to obtain an allocative split between gear groups.

REPRESENTATIVE GARA posed a scenario in which the legislation doesn't pass, and asked if it would be correct to assume that approximately the same number of fish will be taken, just by more fishermen.

MR. SAVIKKO replied yes, one could assume that approximately the same volume of fish would be taken.

Number 1629

REPRESENTATIVE OGG related his understanding that Version W sets up a "two-permit structure", and inquired as to how it will work.

MS. ASPELUND agreed that Sections 9-13 establish two parallel structures and moratoria. One of the moratoria is based on vessels that have participated during the qualifying years of 1998-2003, the other moratoria is based on persons who have participated in the same qualifying years. The vessel-based moratoria is limited to however many of the 20 fisheries in which it has a history whereas the individual-based moratoria allows an individual who has fished in the GOA during the qualifying years those individuals can fish in any fishery established in the vessel program. Ms. Aspelund related the assumption that in order for the vessel to operate, it will have to be operated by a person who is also in the individual-based moratorium.

REPRESENTATIVE OGG surmised that a vessel will be required to have a permit, but the permit doesn't necessarily mean that the vessel can fish. In order for the vessel to fish, there has to be an individual with a permit. Representative Ogg inquired as to what would happen if an individual is a vessel owner and a permit holder.

MS. ASPELUND said that the individual will be qualified for each of the permits. In further response to Representative Ogg, Ms. Aspelund confirmed that both permits are necessary to fish.

REPRESENTATIVE OGG inquired as to who actually owns the vessel permit.

MS. McDOWELL specified that the permit isn't property. The permit would be issued to the owner of the vessel.

REPRESENTATIVE OGG surmised then that the owner of the vessel could be an individual or a business organization.

MS. McDOWELL agreed, and clarified that the permit would be issued to whatever the registered owner is. In further response to Representative Ogg, Ms. McDowell confirmed that a vessel owned by a corporation would need to hire from the pool of participants. She noted that it's exactly as is the case now in that an IUP holder has to run the vessel and under this parallel moratorium, the IUP holder would have to be an individual who had participated during the qualifying years.

CHAIR SEATON interjected that the individual would have to have a IUP permit with an endorsement.

Number 1870

MICHAEL MARTIN, commercial fisherman, informed the committee that he has been a commercial fisherman for 37 years and is present today to represent his family's corporation started in 1956. Mr. Martin addressed the issue of why this legislation is necessary as follows:

One, currently National Marine Fisheries Service is in the process of rationalizing the Gulf of Alaska from 3 miles to 200. To do nothing from 0-3 miles would allow anyone access to the state's open entry fisheries.

Two, currently every year has brought shorter state fishery seasons. And in the last two years, the cod pot fishery exceeded the gear-specific allocation; correctly reallocating away from the jig fisheries. This is a direct result from a fishery that is already over capitalized.

MR. MARTIN then addressed the purpose of the moratorium as follows:

The purpose of a moratorium is to stop the growth of a fishery to allow time for the managers to research and implement a proactive management for the maximum benefit to the State of Alaska. All rationalizations weigh heavily to the historical entities. These entities have invested capital and effort to show dependency on the fisheries of concern. For a multitude of reasons, I'm here asking you to support giving the moratorium for vessels and not captains. Why? Number one, it would be consistent with how the state dealt with the Bering Sea hair crab and statewide scallop fisheries. Like those fisheries, the purpose should be to create a status quo for current entities and not to allow for expansion. Number two, this would also be consistent with the intent of the ... North Pacific Fisheries Management Council moratoriums. Number three, to give a moratorium to captains would expand the current fleet to at least ... 26 percent higher than the current participation. ... A real example of that ... the fishing vessel Captain Kid (ph) pot caught fish 1998 through 2003. Under your moratorium for captains concept, my vessel would qualify four captains I've had numerous conversations with other boat owners and found my example to be consistent with them. I strongly believe that the number of unique permit holders is underestimated.

Red herrings, owner-on-board provisions: Our family-owned vessels that have never had an owner on board as a captain. Please let me know which one of you are going to call my 87-year-old grandmother, who is currently CEO [chief executive officer] of her company, [and tell her] that she now needs to go fishing. ... Owners living out of state ... that may be the case for some vessel and some captains, as it is in many of our Alaska fisheries, but the majority of owners still leave here in Alaska. I would contend that a moratorium isn't going to increase anyone's moving outside. In conclusion, I believe it's important to allow the historical current vessel owners the ability to maintain fishing operations as they have and not reallocate and expand already over capitalized fisheries.

CHAIR SEATON highlighted that he didn't know of anything in this legislation that would require an owner on board. The legislation merely requires that an individual with an endorsed limited entry IUP has to be on board the vessel.

REPRESENTATIVE OGG mentioned that Mr. Martin has been a member of the Board of Fisheries and is even a past chair of it.

Number 2134

ALEXUS KWACHKA, commercial fisherman, informed the committee that he has been fishing out of Kodiak for 17 years. Mr. Kwachka announced his opposition to the moratorium and the skipper portion of the legislation as well. He opined that this should remain an open-access fishery, which will best benefit coastal Alaska fisheries. This legislation, he surmised, is really attempting to facilitate the rationalization in the GOA on the federal side. He pointed out that there are plenty of management tools available to slow this down. For example, the Board of Fisheries can reduce the amount of pots to harvest these fish. With regard to quotas and how fast these fisheries are going, he related that in 1997 40,000 metric tons of fish to harvest and that has decreased to 20,000 in 2003 and the quota is 25 percent of those numbers. The aforementioned illustrates the dramatic decrease in the amount of fish that fishermen have been able to harvest. In the same time period, fishing efficiency has increased, which combined with the declined harvest results in a quicker [season]. He acknowledged that open access could lead to a race for fish, but economics should be allowed to dictate the situation. The rationalization process is a federal program that doesn't take into account anything for skippers and crew. Mr. Kwachka related that he doesn't want to help the federal rationalization program.

Number 2301

REPRESENTATIVE GARA inquired as to qualify for the individual IUP. He asked if an individual who has participated in the fishery in the past would automatically qualify.

CHAIR SEATON confirmed that participation by the vessel or the permit holder in the years of 1998 through the effective date of the legislation would allow the vessel or the individual to qualify.

REPRESENTATIVE GARA asked if Mr. Kwachka would qualify for an IUP, inquired as to what's wrong with imposing a moratorium that would allow the permit holder to fish.

MR. KWACHKA specified that he doesn't qualify for a vessel moratorium, but would qualify for a skipper card. Therefore, if he purchases a vessel, he will have a card that says he can fish, but no vessel on which to do so. Mr. Kwachka stated that he didn't like that. Furthermore, he opined that it would limit the number of people who could come off the deck and become skippers, which he didn't like either. Mr. Kwachka said that he didn't want any economical gain, rather he wanted to make a living as a fisherman. "We're really lop siding this whole system against the fishermen and coastal communities, for that matter," he remarked.

REPRESENTATIVE GARA posed a situation in which the vessel-based moratorium is eliminated and one could only participate in the moratorium if he or she had participated in the fishery as a fisherman. He asked if Mr. Kwachka feared that without a moratorium the fishery would become too crowded.

MR. KWACHKA acknowledged the potential of the fishery becoming too crowded. However, the Board of Fisheries could utilize management tools to slow the fishery, such as tweak the pot limits. Mr. Kwachka opined that coastal Alaska should have the most opportunity to place people on the water fishing. If the season becomes short enough that people can't make a living, then people quit fishing. However, what's happening is that people are going away because they aren't even having the opportunity to participate.

Number 2489

ROBIN CLARK related that her husband has been a fished Alaskan waters for 25 years and has skippered his own vessel and other owner's vessels since 1988. Ms. Clark related that she and her husband strongly endorse the status quo for cod fisheries. If that's not possible, then the skippers and the crew that harvested the fish shouldn't be excluded from the fishery. For the past seven years, cod income has been at least half of her family's fishing income. Ms. Clark related that she had thought her voice had been heard loudly when she testified on behalf of the skippers and crew in Kodiak [during a recent Board of Fisheries meeting].

Number 2561

DONNIE LAWHEAD, JR., commercial fisherman, informed the committee that he has been a commercial fisherman for 12 years. He noted that he is a boat owner and a crewman on other boats. Mr. Lawhead related that he is against the proposed moratorium for groundfish in state waters. He echoed earlier testimony that the fishery will govern itself. "This proposal is trying to fast-track the process of a public resource so it will be easier and faster to limit the number of boats fishing. This is not good for fishing communities," he said. He pointed out that fewer boats fishing results in fewer jobs and less money in the community. "The final product of this proposal is probably a limited entry permit or IFQ. Look at the federal fishery, they went to co-ops with IFQs and processor shares. This is not right. This is not what we want," he remarked.

Number 2633

JULIE KAVANAUGH informed the committee that her family owns and operates a 58-foot vessel out of Kodiak. She related that her husband has fished Pacific cod since 1991. Ms. Kavanaugh noted her discomfort with regard to the haste under which this legislation was created as well as the urgency to accept SB 347. She expressed concern that under this proposed moratorium a owner/operator would be obligated to draw from a closed pool of operators. Therefore, there may not be an available operator to run a boat. She expressed the need for an owner/operator to be able to keep his/her boat running with an operator of his/her choosing.

Number 2714

JULIE BONNEY, Alaska Groundfish Data Bank, informed the committee that the Alaska Groundfish Data Bank consists of approximately 25-30 trawl vessels which homeport in Kodiak. The Alaska Groundfish Data Bank supports CSSB 347(RES), she related. However, if Version W is more acceptable to this committee, then it would be for the Alaska Groundfish Data Bank also. Ms. Bonney noted that she is a member of the Board of Fisheries Gulf [of Alaska] Rationalization Task Force. Eleven of the twelve members of the task force recommended that the moratorium move forward. Seven of the seven members of the Board of Fisheries voted in favor of the moratorium. Now CFEC and ADF&G have come to the legislature requesting that the moratorium proceed. She expressed concern that the moratorium is being misconstrued as a limited entry access program while the reality is that it's a short-term controlled pool of vessels participating in order to

allow the state to react to the federal rationalization program. She highlighted that the state and federal fisheries are structured such that they work together under an open access environment. Once the federal system is moved away from an open access environment, those vessels will be able to participate in state waters where they haven't before.

MS. BONNEY turned to the trawlers and provided the following example. The Prince William Sound pollock fisheries have an average of three vessels that participate in the fishery each year. The quota for that fishery is approximately 2 million pounds. Those three vessels choose to do that fishery and forego the federal fishery, which happens concurrently. Now, on average there are 35 vessels that fish the Kodiak zone of the state fishery. If those federal fishermen aren't obligated to fish on January, all 35 of those vessels could move to the Prince Williams Sound state fishery. The aforementioned would result in the state not being able to manage the fishery, and therefore would forego the fishery. Ms. Bonney stressed that this moratorium is a temporary measure to do research in order to meet what the federal government is doing on its side. To assume that one solution is going to fit every gear type or zone is presumptuous. Ms. Bonney urged the committee to move the moratorium forward.

Number 2892

CHAIR SEATON inquired as to Ms. Bonney's estimation with regard to the first year the vessels would be fishing under an IFQ program under a Gulf [of Alaska] rationalization that so far hasn't adopted a preferred alternative.

MS. BONNEY recalled that Ms. Aspelund related earlier that Commissioner Duffy suggested that the preferred alternative would be determined by 2004 and the implementation would occur in 2006 or 2007.

Number 2956

AL BURCH, Executive Director, Alaska Draggers Association, informed the committee that the association represents 35-55 members.

TAPE 04-22, SIDE B

MR. BURCH noted his long-time involvement in fishing in Alaska. He said that he agreed with most of the testimony of Mr. Martin and Ms. Bonney. He further noted his agreement with Ms. Kavanaugh on the skipper issue. He related that the skipper of one of his vessels has been with him for about 14 years and been skipper for about 6 years. On his other vessel, he lost a skipper of 15 years to a heart attack and the present skipper probably wouldn't qualify [under this proposed moratorium]. With regard to the earlier comments that this moratorium is on a fast track, Mr. Burch related that this has been worked on for four years. This is a situation in which something has to be in place within the 0-3 mile area or else there will be chaos in the fishery.

MR. BURCH turned attention to the Board of Fisheries findings and purpose paper, which indicate the need to have economic health and stability of the commercial fisheries. Currently, the fisheries aren't economically healthy. In fact, the white fish fishery is on the edge of following the salmon fisheries into chaos. Stability is necessary, he opined.

MR. BURCH, in response to Representative Seaton, explained that the pollock and the cod are increasing. However, the economic stability of the fisheries aren't due to the sea lion closures and other things that impact these fisheries. In order to rationalize and stabilize the fishery, there has to be something that works with the federal management scheme as it's developed. In further response to Chair Seaton, Mr. Burch said that it's a fair assessment that the earliest the IFQ would be implemented would be in 2006 or 2007.

Number 2753

RON PAINTER informed the committee that he is the owner and operator of two fishing vessels. Mr. Painter requested a moratorium for vessels rather than skippers and expressed the need for legislation that protects Alaskans and encourages employment opportunity. He questioned why one classification of crew would be given moratorium rights over another. He further questioned why moratorium rights wouldn't be given to the source of those employment opportunities, the vessel owners. Therefore, he reiterated the need to place the moratorium on the vessels rather than the skippers.

Number 2666

SARA HAINES, "Fish Heads," explained that the Fish Heads is a small group of like-minded commercial fishermen. Ms. Haines provided the following testimony:

It seems that this push for a state moratorium on groundfish participants is the result of the realization that when a federal rationalization plan goes into effect there will be overlapping areas of jurisdiction. The NPFMC has (indisc.) that they can't go ahead with rationalization until the state adjusts its regulation to mirror those of the federal government. We urge your state to have its own mind with regard to fisheries legislation. Senate Bill 347 spells out the fear that as participants are squeezed out of the federal fishery, they will flood into the state-water fishery and it means to slam the door on these fish refugees before they can get in. The term used for this is over capitalization, but this is a euphemism for too many fishermen. The fact is these are real people who fish and live here in Alaska. The idea that it is time to thin out the herd for the good of the survivors is down right Stalinist. The idea that the Alaska State Legislature should proactively head off over capitalization sounds like something the Soviets would've done. As they start to lead into this tar pit of regulatory issues, I think the legislature should ask itself, "What country do I live in? How about a little freedom here?" The US General Accounting Office identified two problems with the federal IFQ plan interim report last February. One was a lack of community protection and the other was a lack of new entry participants. The state-water fishery has always been a way for locals to make a living in their own community, and a way for new entrants to get a start fishing. Don't slam this door. Please let the realities of economics determine capitalization like they should in America. In the hearts of many, Alaska stands for freedom. Don't chain fishermen to one spot and tell them not to move. Don't try and take our freedom away.

MS. HAINES, in response to Chair Seaton, estimated that the Fish Heads consist of about 50 members. In response to Representative Ogg, Ms. Haines related that the organization encompasses any commercial fisherman who thinks as the Fish Heads.

Number 2500

FRANCIS COSTELLO informed the committee that he is a hired skipper in Kodiak who has spent 22 years commercial fishing in [the Kodiak area]. He related how he rose through the ranks from a crewman to a hired skipper. Mr. Costello said that he didn't want to be left on the bench as a hired skipper, which would be the case if this legislation is passed without any provisions for hired skippers. "I can't say that enacting a federally cloned moratorium title system for state cod is the way to go, but the whole dynamics of the fishery will change," he opined.

CHAIR SEATON noted that this moratorium would be on all groundfish fishery species, not just cod, within the three-mile limit.

SHAUN KOSON informed the committee that as an owner of a 33-foot vessel he participates in the jig fishery [in Kodiak]. The jig fishery hasn't been addressed, and therefore will allow others to enter. Mr. Koson further informed the committee that he is prepared to enter the state-water cod fishery, although the moratorium hasn't provided him the opportunity to do so. This moratorium ties the permit to the vessel, and therefore he would have to purchase another vessel in order to get into the [state-water cod] fishery. The aforementioned is wrong. He expressed the need for the legislation to address people such as himself and others. Furthermore, he noted that he can't buy into the fishery nor is the jig fishery protected. "Where are you going with this," he asked.

CHAIR SEATON said that the hearing is to determine where the legislation is going. He noted that there are three committee substitutes (CS), one of which relates only to vessels, one relates only to permit holders, and Version W is a dual system in which both vessel and permit endorsements would be required. No decisions have been made yet, he stated.

MR. KOSON opined that the federal government missed the boat. He indicated that the federal government should've gone for gear sight through allocation or something similar. Mr. Koson predicted that through consolidation, people will lose their jobs on the larger boats. "I had seen the writing on the wall, I bought the smaller boat. I'm trying to get into the fishery. And now ... you're slamming that door that the Fish Heads said. And ... it's going to be more than a slight hardship on myself and my family. Open access still works. ... I don't know what

the answers are to this because rationalization hasn't happened yet, it's not there. You can't slam the door on people that are already here, geared up, spending money trying to get ready to do the fishery," he stated.

Number 2202

REPRESENTATIVE OGG acknowledged that the department had automatically excluded the jig fishery because one fishery needed to be open at the very bottom. He inquired as to the sentiments of other jig fishermen.

MR. KOSON related that over the last couple of years the jig fishery season has closed earlier, which he indicated was a result of more crossover [between the state-water and federal fishery]. Mr. Koson reiterated his belief in open access. In further response to Representative Ogg, Mr. Koson said: "Well, you have the boats that are doing the pots ... during the federal season ... in state waters and then they crossover and they do the pots in the state waters and then they crossover and they do ... the state-water jig. So, ... you're going to give them more permits to keep doing that, and still take away from us." Mr. Koson recalled the notion that [the jig fishery] is supposed to be an entry-level fishery, for which he has already done the time. However, now this moratorium would close the door that allows one to move up.

Number 2078

HAROLD JONES related that he has just reviewed [Version W] in the last hour. He expressed concern with the fisheries being split up such that there won't be enough left to make [a living]. Therefore, he questioned whether his investment is worthwhile. Mr. Jones informed the committee that he has been fishing continuously since 1947. He recalled that originally the trawlers had 100 percent of the cod, but little by little the percentage decreased as more people fish pots and long lines.

CHAIR SEATON inquired as to the number of vessels in Kodiak that fish the federal waters but haven't made a delivery since 1998 or haven't made [a delivery] within the state-water fishery. He asked if there are lots of vessels that only fish the federal fishery.

Number 1846

MR. JONES commented on the closures within the state-water fisheries as well as the sea lion closures and critical habitat areas. It's become difficult to find a place to fish, he opined. Mr. Jones said that he couldn't provide a specific number of vessels, but related that everyone fishes everywhere they are legally allowed.

CHAIR SEATON surmised then that Mr. Jones didn't know of the number of vessels or very many vessels in Kodiak that only fish federal waters and wouldn't qualify on the basis of fishing in state waters since 1988.

MR. JONES said that folks fish in the state waters so long as the sea lion closure don't keep them out.

Number 1701

CHAIR SEATON posed the question regarding the number of those who haven't made a delivery within the state-water fishery since 1998 to Ms. Bonney and [the Alaska Groundfish Data Bank].

MS. BONNEY referred to the state's LLP [limited liability partnership] listing, which shows 467 vessels that don't fish within the three-miles of state waters. Those vessels are mostly larger vessels, such as catcher/processor vessels. Ms. Bonney related her opinion that virtually all of the local Kodiak trawl fleet would qualify to fish inside the three miles. However, that would be for pollock because many areas within the three miles are closed to nonpelagic gear.

Number 1618

ALAN PARKS informed the committee that he has been fishing since 1975 and has participated in various fisheries. He related that he testified extensively in opposition to the Korean hair crab vessel-based limited entry because he feared it would spill over into other fisheries, which is happening now. The vertical integration possibilities with a vessel-based system are bad for Alaska, coastal communities, and active fishermen, he opined. Mr. Parks further opined that it's not necessary for the state to follow management policies to mirror the federal fishery.

MR. PARKS turned attention to page 3, line 4, subsection (a), which read: "The commission may establish a moratorium on entry of new persons or vessels, or both, into a commercial fishery if the commission finds that the moratorium is necessary". Mr. Parks said that it's important not to leave such a policy

decision to CFEC. Furthermore, including vessels in this moratorium is removed from what the state has historically done. He pointed out that limited entry permits were issued to fishermen not vessel owners, which is what he suggested in this case as well. The effects of the complexities pertaining to the vessels are unseen. Therefore, a person-based moratorium would simplify things. He indicated that all the complexities couldn't be dealt with this session. Mr. Parks suggested maintaining the state's historic management of its fisheries for the people. Mr. Parks related that he would go with the moratorium if it's a person-based system.

Number 1206

MS. KAVANAUGH reiterated that her husband feels that it's morally right to go with a person-based moratorium rather than vessel-based. Furthermore, tying the skipper to the vessel will bog the system down and not work, she related for her husband.

CHAIR SEATON, upon determining there was no one else who wished to testify, closed the public hearing. He related his understanding that Version W provides CFEC to create, for any fishery in the future, a vessel-based moratorium or permits or both as well as creating this moratorium strictly for GOA.

MS. McDOWELL replied yes. In further response to Chair Seaton, Ms. Kavanaugh confirmed that hypothetically CFEC can implement a moratorium on permit holders. However, the statute doesn't function, which is why the moratoriums done thus far have been enacted legislatively. This legislation is meant to correct the problems in the existing statute.

CHAIR SEATON asked if this legislation addressed correcting the current statute on license holders, the same language [as in Version W] would accomplish that if the legislation only spoke to license holders.

MS. McDOWELL answered yes, the corrections would be necessary either way.

Number 0990

REPRESENTATIVE GARA asked if ADF&G has any authority currently to conduct a vessel-based moratorium.

MS. McDOWELL replied no. In further response to Representative Gara, she confirmed that if the first eight sections of [Version

W] weren't passed, CFEC would have nonfunctional authority to implement a person-based moratorium but not authority to implement a vessel-based moratorium.

REPRESENTATIVE GARA related his understanding that the only vessel-based moratorium authority CFEC has is by statute for two fisheries.

MS. McDOWELL explained that the legislature enacted a moratorium in the scallop and hair crab fisheries and later passed legislation providing CFEC the authority to do a permanent limited entry program based on vessels.

Number 0886

REPRESENTATIVE GARA asked whether it would be unworkable if the legislature clarified CFEC's authority to implement a person-based moratorium but didn't provide CFEC the authority to implement a vessel-based moratorium.

MS. McDOWELL acknowledged that such would improve the existing moratorium provisions. However, it wouldn't provide the ability to effectively do a moratorium in some fisheries. For the groundfish fishery an analysis would be necessary in order to determine whether [it would need to be a vessel-based or person-based moratorium]. She related that from CFEC's first review it appears that it would be very difficult to [gain meaningful control] on growth in the groundfish fishery under a person-based moratorium. The threat to this fishery is primarily additional fishing power. If the federal government takes action such that a number of vessels are freed to enter into [the groundfish fishery], there could be a large influx of additional vessels/fishermen into the fishery. She related that [establishing a cap on the number of vessels in the fishery] appears to be the most effective way to address the possibility of additional entrants into the fishery.

REPRESENTATIVE GARA posited that since CFEC will limit the catch, the large influx of vessels/fishermen would be prevented.

MS. McDOWELL pointed out that CFEC has no power over the catch levels. The CFEC only regulates the number of participants. When there is a permanent limitation program, there's the ability to reduce the number of participants that would be grandfathered in. She explained:

When you go to a permanent limitation program, there you have the ability to actually, to some extent, reduce the number ... that you would grandfather in normally. The highest number of participants in any one year, not everybody who's participated all the way back -- in which case ... you would issue permanent permits to the highest number of participants in a given year, which may be several hundred not 1,300. And you have a system of deciding who's in based on most economic reliance.

REPRESENTATIVE GARA reiterated that although CFEC may issue a large number of permits, the fishermen would have knowledge that ADF&G will ultimately limit the catch or the season. Therefore, he predicted that people probably wouldn't go through the arrangements to bring in tons of vessels from a decreasing federal fishery.

MS. McDOWELL interjected that the issue is in regard to how those [individuals] will make a living during those moratorium years. She pointed out that vessels that are geared, have a crew, and are fishing in a fishery in which the opportunity is reduced or gone will need to do something. "Whether this [participation during the moratorium] is going to get them a permit six years from now or not, they're looking for a way to make a living now, they have every reason to move in ... and participate," she explained. The aforementioned is the risk that the Board of Fisheries and ADF&G believe to be very real.

Number 0330

CHAIR SEATON expressed concern with the broadness [of the legislation]. When one looks at the number of pot vessels in Kodiak, last year there were 43 pot vessels that fished. However, the number of unique vessels that would qualify under the terms of this legislation would amount to 152 vessels. He noted that those [152 vessels] all participated in that fishery and if the years of moratorium participation are allowed to count, it seems the expansion and the race for fish will result from those vessels that are already geared up, know the area, and have participated. Chair Seaton expressed concern that what will happen [under this legislation] is that there will be a potential race for fish within the group of vessels that have already participated in the fishery because of fear that those from the federal fishery may enter the fishery.

MS. McDOWELL characterized Chair Seaton's concern as legitimate as this is a very exclusive moratorium. She noted that a less inclusive moratorium could be constructed, which requires tough decisions resulting from much analysis. Therefore, the default was to be extremely inclusive. She acknowledged that the risk of being extremely inclusive is that "some of those will enter again." She reiterated her earlier comments that [fishermen] and vessel owners have had a lot of motivation to participate for the last five years in anticipation of limitation.

TAPE 04-23, SIDE A

MS. McDOWELL opined that she didn't know that a moratorium would provide more motivation to [participate] in the next four to six years than the motivation that has been present over the last five years.

Number 0043

CHAIR SEATON surmised that to be the same case with the phantom federal vessels. "If we don't think it's going to be a motivation for the people that are geared up for the fishery to go out and participate, why would we think it would be a motivation for people that their vessels really aren't configured to participate in those fisheries," he asked. There seems to be a disconnect between the rationale of the federal vessels entering the fishery and the participating state vessels not being motivated to enter.

MS. McDOWELL identified the difference as the federal vessels being geared up and possibly excluded from fishing in a fishery they are currently fishing. She deferred to ADF&G.

CHAIR SEATON recalled that the testimony has been that the first time those [federal] vessels would be excluded or implementation of rationalization would be 2006 or 2007.

MS. McDOWELL said that was her understanding, but, again, deferred to ADF&G.

Number 0224

REPRESENTATIVE GARA opined that allowing, during a moratorium, the catch to count toward the future ability to fish a fishery after the moratorium has a number of bad side effects. For instance, it might create a race into a fishery that [the moratorium] is trying to regulate and limit. He asked if there

is any strong down side to saying that participation during a moratorium shouldn't count.

MS. McDOWELL related that CFEC feels it's important to have the ability to count some recent participation in any future limitation program in order to make sure that any future would be reasonable, fair, and constitutionally defensible since CFEC's obligation is looking at a limitation. The goal of a limitation is to grant the use privileges to those most economically reliant on a fishery. If the time of the moratorium has to be excluded, then that portion of time can't be looked at in determining who is most economically reliant. Therefore, CFEC is stuck with having to grant use privileges to those who may not have participated for a decade. The aforementioned can make it difficult to construct a permanent limited entry program that is fair, reasonable, and constitutionally defensible.

REPRESENTATIVE GUTTENBERG commented that establishing the criteria is the difficult thing, regardless on what it's based.

MS. McDOWELL said that's exactly why this is being proposed as a moratorium rather than a permanent limitation. This particular situation has so many variables at play that this legislation merely proposes a "time out."

Number 0583

REPRESENTATIVE HEINZE asked if Ms. McDowell agreed that open access still works.

MS. McDOWELL stated that open access is the default under state management. The constitutional amendment that allows for limited entry is only constitutional so long as it impinges as little as possible on open access. Therefore, open access would be in place unless a fishery needs some constraints to access in order to make the fishery biologically sound, manageable, and to avoid economic distress among fishermen. Open access, she related, can work in a fishery that isn't overcrowded.

CHAIR SEATON inquired as to how this moratorium maneuvers around the constitutional test for the Prince William Sound cod fishery, which goes year round and doesn't have enough participants to take the available fish.

MS. McDOWELL answered, "I think it gets around it because it's a moratorium." She surmised that if after an analysis the

situation is as [Chair Seaton suggests in Prince William Sound], then one probably couldn't justify a permanent limited entry program for that fishery. However, if one area is left to open access when all the other areas are constrained under a temporary moratorium, then anyone wanting to enter the fishery will go to the area with open access. Therefore, in order to protect the area with open access from the aforementioned, one may want to not continue that open access [during the moratorium].

CHAIR SEATON asked if the hypothetical that people may want to enter the area with open access is good enough [to constrain it].

MS. McDOWELL replied, "Only for a moratorium, I don't think you could get away with that for limited entry."

Number 0854

REPRESENTATIVE OGG inquired as to the number of vessels that could move into the fishery from the federal zone in 2006.

MS. McDOWELL deferred to ADF&G.

REPRESENTATIVE OGG returned to the notion that a temporary moratorium would maneuver around the constitutional open access issue because of the hypothesis that folks would rush into that open access area. He inquired as to why the same logic wouldn't apply to subsections (i) and (j) [on page 10]. He questioned why subsection (i) wouldn't be sufficient alone.

MS. McDOWELL related that [subsection (j)] pertains to the future limitation program; it specifies that when a permanent limitation program is [implemented] recent economic participation can't be taken into consideration.

REPRESENTATIVE OGG pointed out, "But you're going into ... the permanent permit program while this moratorium is in place, not afterwards, during this temporary moratorium."

MS. McDOWELL clarified that it [subsection (j)] pertains to the decision regarding what is permanently limited and how the permanent program can be structured.

REPRESENTATIVE OGG surmised that the open access issue can be avoided on a fishery that's healthy by placing it under a temporary moratorium and stop entry into that healthy fishery.

However, that same temporary moratorium can't be used to exclude the catch during the moratorium in relation to a limited entry program.

MS. McDOWELL maintained that those are two different things because one is referring to the criteria for the moratorium and one is referring to the criteria for a permanent limitation program. She emphasized that these aren't the findings of CFEC. When CFEC performs a limitation or a moratorium administratively, an entire rationale and rationale document has to be developed. Section 9 of this legislation statutorily enacts it by the legislature, and therefore it's the legislature's decision regarding "whether this passes muster."

REPRESENTATIVE OGG related that the basis for not using those fish catches during the moratorium is to [avoid a race for the fish]. The aforementioned rationale was used on a temporary moratorium on an open access fishery that isn't threatened. Representative Ogg opined that the purpose behind [the temporary moratorium] is to avoid [a race for the fish] and if the door is left open, then [the race for the fish hasn't been avoided].

Number 1202

REPRESENTATIVE GUTTENBERG indicated that the economic model could be significantly different and evolve into a different creature in six or so years such that a new legislature decides to use a different set of criteria.

MS. McDOWELL highlighted that the legislation includes a provision that specified that during the moratorium, CFEC and ADF&G will work together to determine a proposal for a permanent limitation program. If a limitation is actually warranted for any or all of these fisheries, [the question becomes] whether CFEC could do it effectively under its existing statutory authority. If it can be done under CFEC's existing statutory authority, the normal process for limiting a fishery would proceed. However, if it seems that CFEC needs additional authority, CFEC would return to the legislature with proposed legislation regarding the additional authority. Ms. McDowell reiterated that currently the only authority CFEC has is to do nothing and let the fishery return to open access when the moratorium terminates or to limit these fisheries under the existing person-based program.

REPRESENTATIVE OGG asked if there is any reliable documentation regarding the number of federal fishermen who aren't state fishermen that would come into this fishery.

MS. ASPELUND said that there is only very preliminary information on that. She related that there are a number of things that haven't been discussed on the record, such as the potential impacts from the crab buyback program that is underway. There's likely to be an infusion of capital from those approximately 150 vessel owners in the crab fishery. While the vessels are retired out of the fishery altogether, there's an excess of unused vessels available. Therefore, it's likely that some of those [from the crab fishery] will enter this fishery. Furthermore, there is a real fear on the part of the state-water and the parallel fishery groundfish folks with regard to the Bering Sea groundfish fishermen on the north side of the peninsula. She recalled earlier testimony regarding stellar sea lion measures and the critical habitat areas, which could also impact how this fishery and all other Alaska fisheries are prosecuted. "It's been the assessment of a number of folks knowledgeable about these fisheries that they have determined that the risk to ... the Gulf groundfish fisheries staying status quo is greater than any potential risk ... posed by speculation within the moratorium," she related. Ms. Aspelund reiterated that this proposed moratorium allows time to sort out all the potential threats to the fishery, it protects the existing participants in the fishery. Ms. Aspelund clarified that she isn't very comfortable with the data.

REPRESENTATIVE OGG asked if there is a ballpark figure with regard to the number of vessels that could come into [the groundfish fishery].

CHAIR SEATON related that the information given to the committee is that there are 467 LLPs with no harvest in state waters. However, that doesn't mean that those 467 harvested in federal waters. Chair Seaton explained that the LLP was instituted in 1992 and is basically a moratorium right to the vessel owners.

Number 1712

RACHEL BAKER, Alaska Department of Fish & Game, clarified that 457 LLPs didn't have state-water deliveries from 1998-2002, which is all the data available for the federal waters.

REPRESENTATIVE OGG inquired as to any projection with regard to the Bering Sea crab rationalization.

MS. ASPELUND answered that there is unlimited potential.

MR. SAVIKKO related that it's a federal program for which the data is not available. He informed the committee that there are approximately 275 vessels that will be made available to participate under crab rationalization, some number of those may choose to participate in the federal buyback program. However, he said that he didn't have any idea what number may opt out of the fishery entirely.

REPRESENTATIVE OGG said that it would be helpful to have some numbers since these factors have been mentioned.

MS. ASPELUND deferred to NMFS staff. In response to Representative Ogg regarding the quantity of Bering Sea groundfish vessels possibly moving into this fishery, Ms. Aspelund encouraged the committee to seek that information from NMFS staff. She characterized the possibility of Bering Sea groundfish vessels as a factor in the [moratorium].

Number 1962

REPRESENTATIVE OGG recalled that the actual number of vessels fishing in state waters is approximately 550 on a yearly basis. However, that number increases to 1,017 under the moratorium. It appears that under the moratorium, the fishery is potentially being increased by the same number of vessels that may come in from the federal fishery, he surmised.

MR. SAVIKKO agreed that the potential exists, but noted that if these fishermen had been economically sound and able to continue in the fishery they probably would've. "So you're going to have vessels that come and go. For the purposes of this moratorium would some boat that's been moth-balled or moved to another fishery, would it be economically feasible for him to come into this closed class of vessels speculating that his history now could count when in fact it may not," he related. Mr. Savikko noted that there is the potential for those vessels to enter, but he opined that the economic reality would probably lean toward those vessels not entering.

CHAIR SEATON mentioned that's the same economic reality for the LLP vessels. Chair Seaton expressed the need to view the horde on the horizon in relation to the configuration of the vessels and the potential to participate in these fisheries.

MS. ASPELUND informed the committee that of the 467 LLP EEZ participants, 251 of the vessels were less than 60 feet in length. Therefore, 56 percent of that group would fall within the Board of Fisheries 60 foot or less. She also informed the committee that 192 of these vessels were 60-124 feet and only 24 vessels were 125 feet and above.

Number 2181

REPRESENTATIVE OGG related that one can interpret the increase in vessels that aren't presently fishing as opportunity for new entrants. It seems [that this legislation] encourages people to fish during the moratorium and provide people an opportunity to purchase those vessels with the appropriate classification. Representative Ogg asked if it's correct that those vessels which weren't fished last year and weren't going to be could be purchased by someone else.

MS. ASPELUND agreed.

REPRESENTATIVE OGG recalled testimony regarding people shifting from one fishery to another. It appears that under this moratorium anyone could shift over to the jig fishery. However, the state wanted the jig fishery to be an entry-level fishery. Representative Ogg asked if the Board of Fisheries has reviewed making the jig fishery exclusive so that there wouldn't be crossover.

MR. SAVIKKO said that the Board of Fisheries has not yet considered that, although he encouraged participants in the fishery to present a proposal to the board. What Representative Ogg discussed is a tool that the Board of Fisheries could use to prevent vessels from reconfiguring gear in order to participate in the jig fishery, he said.

REPRESENTATIVE OGG highlighted that the Board of Fisheries, on its own, decided to leave the jig fishery as open access. Therefore, he questioned whether the board on its own could decide to have the jig fishery be exclusive open access without a proposal.

MR. SAVIKKO opined that it would take a proposal before the Board of Fisheries from either industry or ADF&G to eliminate the multiple uses of gear. Generally, the board relies on the industry or the public to bring problems forward.

Number 2375

MS. ASPELUND said that she has spoken with Diana Cote, Executive Director, Board of Fisheries and Ed Dersham, Chair, Board of Fisheries, about this, and related that the Board of Fisheries has a tool, a board generated proposal, that can be utilized to address decisions like this. In querying the board regarding the concerns of the jig fishermen, there could be an agenda change request that could place the matter on the agenda this year. The [Board of Fisheries] seems to see the seriousness of the issue and is willing to address it out of cycle in order to maintain and protect a viable entry-level fishery. She encouraged folks to contact the board on this matter.

Number 2460

CHAIR SEATON asked if ADF&G could provide a list of the fisheries that remain open throughout the year in order to get a handle on the number of fisheries that are not distressed, but would fall under a moratorium.

MR. SAVIKKO indicated he would do so.

[SB 347 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 7:22 p.m.