

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 19, 2004
9:05 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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 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
 04/14/04 (H) Heard & Held <PUBLIC TESTIMONY>
 04/14/04 (H) MINUTE(FSH)
 04/19/04 (H) FSH AT 9:00 AM CAPITOL 124

WITNESS REGISTER

HERMAN M. SAVIKKO, Fishery Biologist III
 Alaska Department of Fish & Game (ADF&G)
 Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to
 questions during discussion of SB 347.

KEVIN C. DUFFY, Commissioner
 Alaska Department of Fish & Game (ADF&G)
 Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to
 questions during discussion of SB 347.

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

POSITION STATEMENT: Presented SB 347 on behalf of the sponsor
 by request, Senator Ben Stevens, chair of the Joint Legislative
 Salmon Industry Task Force.

ED DERSHAM, Chair
 Board of Fisheries
 Anchor Point, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 347.

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

POSITION STATEMENT: Provided comments and responded to questions during discussion of SB 347.

ALAN PARKS, Commercial Fisherman
Homer, Alaska

POSITION STATEMENT: During discussion of SB 347, expressed a preference for an individual-based moratorium.

GERRY MERRIGAN, Prowler Fisheries
Petersburg, Alaska

POSITION STATEMENT: During discussion of SB 347, as a member of the Board of Fisheries' GAO groundfish rationalization committee, testified in support of moving ahead with a bill that includes vessel-based moratorium criteria, and in support of giving the CFEC general moratorium authority.

JOE CHILDERS, Director
Western Gulf of Alaska Fishermen
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 347.

JULIE BONNEY
Alaska Groundfish Data Bank
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, expressed support for Version X.

JASON M. KOONTZ, Commercial Fisherman
Homer, Alaska

POSITION STATEMENT: During discussion of SB 347, testified in support of an individual-permit-based fishery, and in opposition to a vessel-based program.

ALEXUS KWACHKA
Gulf Groundfish Fishermen's Association;
Crewmember's Association
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, testified in support of an individual-based moratorium, and in opposition to a vessel-based moratorium.

JULIE KAVANAUGH, Owner/Operator
F/V Silvia Star
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, expressed a preference for an individual-based moratorium or a combination of an individual-based and vessel-based moratorium.

JEFFREY R. STEPHAN
United Fishermen's Marketing Association, Inc. (UFMA)
Kodiak, Alaska

POSITION STATEMENT: During discussion of SB 347, said the UFMA supports a vessel-based moratorium but has no objection to including an individual-based moratorium in the bill as well.

ACTION NARRATIVE

TAPE 04-24, SIDE A

Number 0001

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at 9:05 a.m. Representatives Seaton, Wilson, Heinze, Ogg, and Gara were present at the call to order. Representatives Samuels and Guttenberg arrived as the meeting was in progress.

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

Number 0045

CHAIR SEATON announced that the only 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." [Before the committee was a proposed House committee substitute (HCS) for SB 347, version 23-LS1677\W, Utermohle, 4/13/04, which was adopted as a work draft on 4/14/04.]

CHAIR SEATON noted that members' packets also include [other proposed House committee substitutes for SB 347, Version 23-LS1677\U, Utermohle, 4/2/04, and Version 23-LS1677\X, Utermohle, 4/16/04]; "the rationale that were used for the hair crab fishery"; a proposed amendment changing the time frame in Section 4 to one year; some intent language from Representative

Ogg; and "a letter to consider for the Board of [Fisheries] relating to the jig fisheries."

Number 0161

REPRESENTATIVE GARA moved to adopt the proposed House committee substitute (HCS) for SB 347, Version 23-LS1677\U, Utermohle, 4/2/04 as the work draft.

Number 0172

REPRESENTATIVE WILSON objected.

CHAIR SEATON remarked that the committee has three versions of the bill to consider: "The first version is a vessel-based version; the second version is [Version X] which is a combination of vessel and permits, establishes a new vessel permit and moratorium on that vessel permit; and the third version, [Version U], is a moratorium bill utilizing the current limited entry interim-use permits [IUPs]." He then referred to a handout outlining the fisheries in each area that do not close due to not having been fully utilized.

Number 0296

HERMAN M. SAVIKKO, Fishery Biologist III, Alaska Department of Fish & Game (ADF&G), indicated that the ADF&G biologists in the Central and Westward regions provided the aforementioned information. He went on to note that the state manages black and blue rockfish, pollock, and - in the Central region - lingcod. In recent years, these fisheries in the Central region have typically attained their guideline harvest levels (GHLs). In the Westward region, though, the ADF&G does not specify GHLs; instead it looks at traditional average catches and manages toward that long-term average, and this determines whether a fishery is healthy. He also mentioned that for the "parallel fisheries," those that begin in January - cod, pollock, shallow-water flatfish, and [demersal shelf] rockfish, for example - the ADF&G has concurrent management with the federal government; these fisheries, in recent years, have either attained their specified total allowable catches (TACs) or were constrained by halibut bycatch. He remarked that skates and sharks were, up until the 2003, considered one fishery.

MR. SAVIKKO, in response to a question, said that there has been very little interest shown in the Pacific cod fishery in Prince William Sound, and surmised that this could be due to the

difficulty of harvesting that kind of fish in that area and/or market considerations. All other fisheries in that area, except for lingcod, had either reached their GHLS or were constrained as bycatch only. In response to further questions, he said that the lingcod, Pacific cod, and pollock fisheries are the only ones that are separately managed in the Prince William Sound area by ADF&G biologists, and that pollock reached its GHLS but Pacific cod and lingcod did not.

REPRESENTATIVE HEINZE asked for clarification.

MR. SAVIKKO relayed that in a specific fishery - "and, again, I'm talking from zero to three miles, of direct state management during a state season" - biologists would have established some target allowance for poundage that they felt the resource could handle. Meanwhile, the fishermen would register their vessels, come in and fish, and the fishery would be assessed through sampling programs or observer coverage. Then, when fishermen attained that target allowance, the fishery would be shut down. He noted that when a fishery goes to a bycatch status, it means that a sufficient number of that type of fish has been obtained, and so only a certain percentage of that type of fish can be part of the total catch of a vessel with another fishery as its target.

REPRESENTATIVE HEINZE asked why information regarding fisheries would be treated as confidential.

MR. SAVIKKO said that any time there are fewer than four participants in an area, it is the ADF&G's policy to protect those participants' data; to that end, identifiers are removed and the data is summarized.

CHAIR SEATON mentioned that the legislature, before limiting entry in to certain fisheries, is attempting to get a handle on which fisheries are not fully utilized.

Number 1047

KEVIN C. DUFFY, Commissioner, Alaska Department of Fish & Game (ADF&G), mentioned that he is also the state representative on the North Pacific Fishery Management Council [NPFMC], six members of which are Alaskans. He stated that he is very interested in protecting and promoting the state's interest in all Alaska's fisheries and federal fisheries. He added:

We want to provide sustainable resources and viable fisheries to support our fisherman in our coastal communities, and we want to develop fisheries systems that do that - specifically, ... [increasing] efficiencies resulting in economic benefits and stability, improving safety, improving stock conservation, reducing bycatch where necessary and controlling incidental catches, reducing gear conflicts, and ... providing entry-level access to our fisheries off Alaska's shores.

[The] moratorium concept is intended to address what I consider to be some potential long-term threats to state-water groundfish fisheries. ... As Mr. Savikko ... just testified about a number of groundfish fisheries in the [Gulf of Alaska (GOA)], we are either reaching our TACs or our [GHLs]; that's because the harvesters, through time, become more efficient, especially in the [Pacific] cod fisheries There are impacts resulting from the federal rationalization process that we're going through, in [GOA] groundfish [fisheries] and, ... depending on how we do it in the federal fisheries, this can free up effort in the "zero to three miles," which [are] the state-waters fisheries.

Number 1242

COMMISSIONER DUFFY continued:

There're also other [NPFMC] actions going on that are crossover issues in state and federal fisheries; ... some of these, what we consider constraints or threats to the state-waters, are real but they're oftentimes difficult to quantify. And I know that your committee has spent a lot of time, within the confines of the draft moratorium piece of legislation, trying to address some of these issues, and hopefully the [ADF&G] has been very responsive to your data needs, and we will commit to [continuing] to provide that information.

[Senate Bill] 347, [the version] limiting vessels only while leaving (indisc.) individuals free to come and go during a moratorium is still our preferred choice; we think it most effectively limits the potential for growth, but in the interest of compromise and to

address those that are concerned about particular viewpoints, we are willing to look at other options and are looking at a vessel-based as well as an individual-based [method].

[With regard to] the moratorium concept itself, it's important to remember that the Board of Fisheries ... [and] a number of members of the public ... established a formal "Gulf Rationalization Committee" to advise the Board of Fisheries; this is made up of constituents [with] varied interests across the [GOA]. I think they had a series of approximately four meetings, in working with the Board of [Fisheries], to talk about - timing-wise, as we rationalize federal fisheries - what options do we have in the state-waters fisheries to try and make those two rationalized schemes work together as effectively as possible.

[I] think the committee did a lot of good work, and they came to a conclusion that a moratorium was a good concept to have in place in terms of moving forward in the federal process as well as [in] the state-waters process. The concept they came up with was to leave the jig fisheries exempted as part of the moratorium in order to provide entry-level opportunity. While we recognize this puts them at some risk of increased effort, we also believe the jig fishery represents some long-term opportunities for ... Alaska.

Number 1430

COMMISSIONER DUFFY went on to say:

The [NPFMC] itself ... has constructed a range of alternatives for the federal fisheries, looking at rationalizing the groundfish fisheries; our timeframe at this point, in terms of reaching [an NPFMC] preferred alternative for the federal rationalization program in the [GOA], is currently slated for December of '04. We will probably have ... a detailed analysis of the options available this summer, and the [NPFMC] will then address these issues and see if there are any other [modifications] to the range of alternatives ... at the October [NPFMC] meeting. So the point being that the federal ... [NPFMC] process is moving forward on rationalization.

Once the [NPFMC] decides, in December of '04, it would probably be somewhere in the neighborhood of a year and a half - ballpark- to develop the regulatory structure under the federal system that would then implement whatever system we establish in the federal system. In the federal rationalization program we're looking at a range of alternatives from status quo to [an Individual Fishery Quota (IFQ)] type fishery to a straight co-op fishery, and then there's modifications in between there. What we are not looking at, specifically in the [GOA], is something we did do in [the] Bering Sea crab rationalization for a whole set of other reasons, and that is specifically processors shares in the [GOA] - that is not on the table as an option under [GOA] rationalization.

COMMISSIONER DUFFY concluded:

On behalf of [the ADF&G] and the Board of Fisheries, [which has] put a lot of work into this issue, I'd like to thank you for your hard work and diligence; this is important to Alaska and our coastal communities, and we recognize that and we want to be helpful in this process. Having said that, I would encourage the committee to decide on a version of the legislation that you all think is appropriate at this point, and to allow the deliberative process to move forward on this [GOA] rationalization and [GOA] moratorium you're considering. ... I would encourage you to contact me if you ever have questions about what we're doing in the federal fishery; we are available to provide any type of information you need, ... [and] hopefully my staff is being as helpful as possible in providing timely information. Thank you, Mr. Chairman.

Number 1597

CHAIR SEATON surmised that the goal is to institute procedures that fully utilize GHLS each year.

COMMISSIONER DUFFY concurred, and added:

In the Board of [Fisheries] process, they came up with a range of alternatives they were looking at for the future of state-water fisheries under this

rationalization program, and those three options have been incorporated into the federal analysis so [that] as the federal system moves forward, they understand what the range of alternatives are on the state side. ... In our set of alternatives, we are looking at future fisheries that capture, historically, what we've harvested in the state-water fishery; we're looking at options that capture, historically, what has been harvested in the state-water fisheries as well as [in] the parallel fisheries; and we are also looking at an option for expansion of the state's share of the groundfish resources in state waters under state management as we move forward. ... Our intent is to provide not only historic participation but also, through our management and the Board of [Fisheries] process, to ... provide for expanded opportunity in the state-waters fisheries.

REPRESENTATIVE GARA asked whether the moratorium is needed for conservation reasons, or whether the ADF&G already has adequate tools outside the context of a moratorium.

COMMISSIONER DUFFY replied:

We have adequate tools in our authorities to address all the conservation issues in [the GOA]. There are some species, obviously, that we don't know that much about, and we want to make sure that for some of these miscellaneous species, we're not over harvesting. But the concept of a moratorium, as part of [GOA] rationalization, we think has the ancillary benefit of providing some constraints in growth, which, by definition, would help us have that greater comfort level relative to the conservation issues. So I think the primary issue is, controlling growth to get a snapshot of participants as part of rationalization. But if we have that opportunity, through a moratorium, to control that growth, it will also have ancillary conservation benefits.

Number 1789

COMMISSIONER DUFFY, in response to questions, said:

I operate under the assumption that all fishermen in state waters, unless identified otherwise, participate in a legal fashion in their fisheries and do

everything they can to comply with the conservation requirements and any enforcement requirements as well as onboard observers in certain circumstances. So we are not worried about ... illegal catch. ... The issue for us is, as you get additional participation and [GHLs] remain static, then, by definition, the pie is divided up into smaller pieces. So through time what you get is a less economically viable fishery for a number of participants, and that's ... an important issue to address through a moratorium.

COMMISSIONER DUFFY, in response to a further question, said that a moratorium could potentially prevent federally licensed vessels that do not currently participate in state-waters fisheries from harvesting fish in state waters.

REPRESENTATIVE WILSON asked whether this could result in more competition among "moratorium vessels."

COMMISSIONER DUFFY said he wouldn't agree that such would be the case. He offered:

I think what we've got right now under status quo [are] defined harvest levels that fluctuate mildly depending on abundance and the opportunity for new participants to come in. So there's already a ... "race" for fish, with an inability to constrain growth of participants. Through a moratorium, you would have the same amount of biomass being harvested, but you would be defining the players in that arena. So it's a protective mechanism, to try [to] ... protect those participants through a moratorium.

REPRESENTATIVE WILSON asked whether, if the moratorium limits vessels, those vessels that currently operate outside the three-mile limit would be excluded from participating in a state-waters fishery.

Number 1974

COMMISSIONER DUFFY explained that there are some [federally licensed] vessels that do currently participate in the parallel fishery, and so putting a moratorium in place would simply preclude additional entrance into the fishery through a period of time. He said he expects that through rationalization of state-waters fisheries by the Board of Fisheries, vessel size and types of gear will be determined, and this criteria could,

through time, work to further constrain participants and provide more opportunity for some of the coastal communities and smaller vessels that typically come out of those communities. In response to a question of whether a vessel-based moratorium would be used to keep as many [federally licensed] vessels out of state waters as possible, he explained that in the federal fishery, the Magnuson-Stevens Fishery Conservation and Management Act is in effect, and so there are certain issues that must be dealt with; for example, there are a total of 10 national standards including not discriminating against nonresidents and protecting coastal communities.

COMMISSIONER DUFFY reiterated that a vessel-based moratorium would prevent an increase in participation, whereas leaving the fishery open also leaves open the question of how many fishermen currently participating in the federal waters could merely register with the state and then come into state waters and thus create more competition.

REPRESENTATIVE WILSON asked for a more detailed description of the differences between the proposed committee substitutes.

CHAIR SEATON instead referred to a handout in members' packets, and offered his interpretation of the information included therein. He suggested that a vessel-based moratorium could create an incentive for vessel owners who aren't currently fishing in a particular fishery to start participating just so as to qualify, under a "historic" criterion, in the moratorium.

REPRESENTATIVE HEINZE asked Commissioner Duffy what version he would be happiest with.

COMMISSIONER DUFFY said he would prefer a vessel-based moratorium but would consider other options in a spirit of compromise.

Number 2440

REPRESENTATIVE HEINZE said she would like to understand the differences between Version U and Version X.

CHAIR SEATON offered his understanding that Version U pertains to permits only - "entry permits, interim-use permits" - and does not "work with vessels." Version X and the original SB 347 create a new license - a vessel permit.

COMMISSIONER DUFFY said that a two-part approach - looking at both vessels and individuals - seems to make sense given the committee's concerns.

CHAIR SEATON asked whether a moratorium based on the current permitting system would be acceptable to the state.

COMMISSIONER DUFFY said such would be acceptable, but a vessel-based moratorium would be more acceptable because it will make for a smaller field of participants. He added that the state is also willing to look at a person-based moratorium.

REPRESENTATIVE GUTTENBERG asked whether the [NPFMC] is waiting for the state to decide what kind of moratorium to put in place before it moves forward.

COMMISSIONER DUFFY said the [NPFMC] is not waiting for the state to act first. He relayed that the federal system is moving forward in terms of developing an analysis independent of moratorium issues, though it is aware that the Board of Fisheries has a set of findings and has recommended a moratorium to the legislature. In response to another question, he said that it is up to the state to determine how a moratorium in state waters is shaped, via legislative and Board of Fisheries participation, and the federal rationalization process will not overturn or preempt it.

Number 2754

COMMISSIONER DUFFY, in response to further questions, said that it is his understanding that in some cases, federally permitted vessels have turned in their federal permits - License Limitation Program (LLP) - and this has allowed them to come in and participate in a state-waters fisheries. He reiterated that the Board of Fisheries will be able to determine criteria for vessel size and type and type of gear.

CHAIR SEATON said that one concern he has heard expressed is that federal rationalization will remove seasonal constraints.

COMMISSIONER DUFFY said that although season lengths could vary, there will always be some sort of seasonal constraints. He again pointed out that without a moratorium in place, the field of participants will continue to expand. Though some may argue that creating a moratorium will cause people to rush in to participate, there is already a race for fish; he remarked that his hope is that a moratorium will create "a stand-down period"

wherein people who do come in and fish during the moratorium period might not in fact qualify, depending on the qualifying years. In response to another question, he explained that the groundfish fishery in Cook Inlet consists of cod, and that the GHL for that fishery is being reached.

Number 2918

CHERYL SUTTON, Staff to the Joint Legislative Salmon Industry Task Force, Alaska State Legislature, spoke on behalf of Senator Ben Stevens, chair of the Joint Legislative Salmon Industry Task Force and sponsor of the bill by request of the Board of Fisheries, the North Pacific Fishery Management Council (NPFMC), the Alaska Department of Fish & Game (ADF&G), and the Commercial Fisheries Entry Commission (CFEC). She relayed that Senator Ben Stevens's preference is to have CSSB 347(RES), which provides for a vessel-based moratorium, be the vehicle that moves forward; in the spirit of compromise, however, Senator Ben Stevens would support a vessel- and participant-based moratorium as proposed in Version X. She relayed that Senator Ben Stevens would also support "a more recent qualifying period," which would address a "recency" concern brought forth by the Commercial Fisheries Entry Commission (CFEC), and not allowing moratorium activity to count towards any permanent program that may be adopted.

TAPE 04-24, SIDE B

Number 2960

MS. SUTTON relayed that Senator Ben Stevens would not support a solely participant-based moratorium. In response to questions, she reiterated her understanding that Version X is a combination of vessel- and participant-based moratorium.

REPRESENTATIVE GARA asked how one would qualify for a permanent program if participation in the moratorium won't count towards historical criterion.

MS. SUTTON suggested that the Commercial Fisheries Entry Commission and the ADF&G could better address that question.

Number 2751

ED DERSHAM, Chair, Board of Fisheries, said he concurs with the comments of Commissioner Duffy and Ms. Sutton. From the Board of Fisheries' perspective, "this" is only partly about the "timeout," only partly about controlling efforts during this

period while rationalization is considered; more significantly, for the Board of Fisheries' process, this is about encircling the participants and getting a handle on who they are at the current time under a moratorium. Doing so will open up more options for the Board of Fisheries to consider as it reacts to the federal rationalization program.

MR. DERSHAM, using the cod fishery as an example, said:

In the state waters in cod, we have the parallel fishery that takes place in state waters during the federal fishery, and we have [a] separate state-water with pots and jigs that occurs in a different season. In the federal fishery we have pots, jigs, longlines, and, in some areas of the [GOA], trawl. So if the Board [of Fisheries] does not have a way of encircling the participants, if there's not a moratorium, if there's not a looking towards something that encircles the participants, our options are very limited in our reaction.

We have our "time, area, method, means" authority that we use ... [but], in state waters, we ... couldn't even stand pat; we couldn't just stand back and say, "We're going to continue to do what we've done in the past," because that wouldn't be possible under rationalization because our state-water fisheries now don't open up until the parallel fishery in the federal fishery end. Well, they wouldn't necessarily end under a rationalized federal side, because the whole idea is to slow down the pace of the fishery. So our options would pretty much be limited to just [a] state-water fishery with pots and jigs; longlines would be very difficult to have in state waters under our current authority because we wouldn't be able to apportion the bycatch that's now apportioned to the longline fishermen that participate in state waters through the federal side.

Number 2673

And we wouldn't be able to limit the entry into the state waters of other longline fishermen that haven't [participated] in the parallel fishery in the past without the moratorium. So we would have very limited options. ... But ... it's possible, as we explore this, that the best results for the state ... might be

something under very limited options. It might be something very much like enlarging our current state-water fishery, but it also might not, because as we try to use our allocation criteria, which includes the effect on the economies of the state and the local communities involved - the coastal communities here - we need to look at the economic efficiency that Commissioner Duffy alluded to and try to design ... a fairly complicated but wide ranging array of options that might include [a] fairly significant jig fishery open to entry.

It might include ... the other gear types under something other than "open to entry," with a mixture of allocations to different size vessels; that would protect the small boat fishermen but also recognize the history of state residents that have larger vessels that have participated in both the parallel fishery and the state-water fishery and have significant histories. And ... we've explored, under the legal aspects, the possibility of IFQs in state waters; that might meet a constitutional test and be legal under the state system. [The Board of Fisheries] would require additional authority that ... [it] doesn't currently have, which would require coming back to the legislature to ask for that.

Number 2539

MR. DERSHAM continued:

But we're just trying to create a situation that keeps as many of our options open as possible, so we can go down this road and look at this whole situation and say here's what's best for ... Alaska in the [mind] of the Board of [Fisheries]. And we have this workgroup that's worked for a year now and is continuing to work, and [it's] ... a wide ranging group of ... Alaska residents that participate ... in all the facets of the groundfish fisheries in the [GOA].

So, ... I'm trying to bring a little bit more clarity to why we're supporting this beyond the fact that ... you need to look at a moratorium as a timeout to ... slow down the race for fish. And in this case, that's part of the rationale. ... For the Board [of Fisheries], the main rationale is that it gives us an

ability to look at more options and really decide what's best for the state, rather than kind of be forced into a narrow range of options to react to the federal rationalization that seems to be coming pretty quickly. Thanks, Mr. Chairman.

MR. DERSHAM, in response to questions, confirmed that the Board of Fisheries currently has the ability to make distinctions and apportionments according to vessel size, and reiterated that one of the options a moratorium would make available could include, for example, apportioning equal shares of a fishery according to vessel size and history. Having a limited number of participants could make the foregoing option possible. He also reiterated his earlier comments regarding IFQs, meeting a constitutional test, and coming back to the legislature for more authority. He noted, however, that at this point, he couldn't say what the Board of Fisheries might ultimately conclude is the best option for Alaska; rather, the Board of Fisheries is merely trying to keep its options open.

CHAIR SEATON raised the issue of apportioning bycatch.

Number 2092

MR. SAVIKKO said:

My understanding of the issue, of bycatch that's a problem in this specific fishery, was the halibut bycatch. And again, that's a fishery that is controlled by a treaty agreement and ..., as the federal biologist explained several meetings back, the halibut is fully allocated already. And to bring in a gear type such as a longline or a trawl fishery within state waters, you would have to reallocate existing fish from one user group to this other user group. So that was the [concern] on bycatch when you term that bycatch - we're not talking rockfish or lingcod or other bycatch species that I was speaking to earlier - the problem was the halibut.

CHAIR SEATON offered his understanding that in state waters, during the parallel fishery, the longline cod fishery almost always all occurs before the halibut opening. And if such is the case, doesn't the state have a way of saying that halibut is a prohibited species in a state-waters longline fishery?

MR. SAVIKKO replied:

What I was saying was, in that specific instance, where you're talking about a directed longline fishery for Pacific cod in the parallel season, they are already allocated, through the [International Pacific Halibut Commission (IPHC)], an apportionment of halibut for that specific fishery. If we were to continue that in the state-managed fishery, which would typically start in let's say February or March, then you would have to take from that group, and other groups, additional halibut to allocate to this new user group fishing in March that currently is not a legal gear type during the state-managed fishery.

CHAIR SEATON asked whether there would be a problem with the state continuing to manage the state-water fishery during the parallel fishery.

MR. SAVIKKO indicated that many issues, such as whether there will even continue to be a parallel fishery, are still up in the air.

CHAIR SEATON asked whether the ADF&G is telling the Board of Fisheries that it has to eliminate all longline fisheries from state waters.

MR. SAVIKKO said no, that such a decision is up to the Board of Fisheries to make via its normal process.

Number 1852

REPRESENTATIVE WILSON asked Mr. Dersham which version of the bill the Board of Fisheries would prefer.

MR. DERSHAM said that the Board of Fisheries is willing to work with either the version providing for a vessel-based moratorium or the version providing the combination vessel-based and participant-based moratorium.

CHAIR SEATON asked whether the Board of Fisheries would also be willing to work with an IUP-based moratorium.

MR. DERSHAM said that neither the Board of Fisheries nor the aforementioned workgroup has had an opportunity to discuss that option yet.

CHAIR SEATON offered his understanding that an IUP-based moratorium is the only type currently authorized by statute.

Number 1749

MARY McDOWELL, Commissioner, Commercial Fisheries Entry Commission (CFEC), Alaska Department of Fish & Game (ADF&G), offered her understanding that Version X "is Version W with some fine tuning" that occurred over the last few days in response to issues raised during the committee process, one of which was the desire to make it possible for the moratorium to end sooner.

Number 1699

REPRESENTATIVE Ogg moved to adopt the proposed HCS for SB 347, Version 23-LS1677\X, Utermohle, 4/16/04, as the work draft. [The motion to adopt Version U as the work draft and the objection to that motion were left pending.]

Number 1683

REPRESENTATIVE WILSON objected.

MS. McDOWELL offered to explain the changes incorporated into Version X. On page 3, lines 3-5, there is new language intended to clarify that nothing in the groundfish moratorium would predetermine what, if any, permanent limitations on entry might be adopted later. She opined that having a moratorium based on both vessels and individual will level the playing field. Page 7, lines 18-19, now says that the CFEC may, by regulation, extend the moratorium on entry of new participants and vessels into the GOA groundfish fishery listed in subsection (1). The intent here is to clarify that the moratorium may not have to be extended on all fisheries. The language on Page 9, [subsection (f)(1)], now addresses the concern that one could increase vessel size by swapping vessels; there is no longer language permitting an increase in size of up to 10 percent.

MS. McDOWELL relayed that language on page 9, lines 22-24, would not allow for any separation of a moratorium permit and the vessel; thus, if a moratorium-eligible vessel was sold during the moratorium, it could continue to fish because the moratorium permit would transfer with the vessel. The language now on page 10, lines 27-31, allows the moratorium on specific fisheries to be shortened if the CFEC adopts another solution within four years. She noted that there was a concern raised at a prior meeting regarding the need to insert language "in the groundfish

part" comparable to language currently on page 6, lines 30-31, which says, "Nothing in this section limits the powers of the Board of Fisheries or the Department of Fish and Game"; the drafter, however, has pointed out that similar authority that could pertain to the groundfish section of the bill already exists under another statute.

MS. McDOWELL, referring to Ms. Sutton's comments regarding the sponsor's willingness to consider shortening the qualification period, pointed out that if the committee did want to do that, it would go a long ways towards addressing the concern that the pool of moratorium participants would be too large, and could easily be done by changing the language on page 8, lines 6 and 23, so that it references, "January 1, 2000; the qualification period would then be four years instead of six years. She remarked that such a change would reduce the pool of potential participants during the moratorium, pointed out that four years is normally the amount of look-back time the CFEC uses in most limitations, and characterized it as a reasonable period of time. The only people and vessels that would be excluded under such a change would be those who participated five and six years ago but haven't participated since.

Number 1159

MS. McDOWELL opined that the changes made thus far coupled with reducing the qualification period would result in a bill that is very responsive to the concerns raised thus far. She remarked that "this" is a tough, complicated issue, and that if the committee feels that the CFEC should have the tools to deal with moratoria needs as they arise in the future, then there are other sections of [Version X] that would provide such. She characterized Section 9 as being very responsive to the committee's concerns, and as providing the CFEC with a workable and easily administered moratorium, which would keep freed-up federal vessels from coming in and would contain potential growth throughout its duration.

REPRESENTATIVE OGG asked whether the CFEC would be amenable to reducing the moratorium period to two years with the possibility of having a one-year extension.

MS. McDOWELL said that such a change would result in a very short time period, and pointed out that the purpose of a moratorium is to do thorough analysis, which might not be possible if the time period were too short, particularly given the CFEC's current staffing level and workload. She added:

I'd be reluctant to say that we would have the ability to do the kind of thorough analysis, in that amount of time, that would need to be done, to make a decision about what to even propose. ... We may also not know for sure what's happening at the federal level and what the risks are to these fisheries, whether we can risk open access, [and] whether the Board [of Fisheries] would have tools to deal [with issues] ... in that amount of time. I don't know that we could come up with a very sound proposal in such a short time period.

REPRESENTATIVE OGG said he would like the CFEC to work with due diligence and resolve this issue as quickly as possible because the proposed moratorium can potentially tie up a large number of fisheries for a long period of time. He suggested that the language currently in Version X would allow the CFEC the ability to extend the moratorium whenever it wished.

Number 0882

MS. McDOWELL pointed out that the generic portions of Version X only address the CFEC's ability to extend a moratorium created under AS 16.43.225, whereas the moratorium specifically authorized by Version X is not one of those types of moratoria. She attempted to assure Representative Ogg that the CFEC has every motivation to arrive at a proposal for a permanent solution as early as possible, since it is by far easier to craft a permanent program if there has not been a long moratorium.

CHAIR SEATON offered his understanding that the [GOA] rationalization will be in place by 2006-2007. He asked why there should be a moratorium lasting longer than it takes for the federal program to be implemented.

MS. McDOWELL replied:

Even if the federal government was not taking any action in these fisheries, if we were just going to try to put together a moratorium and come up with a limitation proposal just strictly looking at state issues, these are by far the most complicated fisheries the [CFEC] will ever have dealt with. ... Normally, when you limit a fishery, you have one gear type, one species, one area. Here we've got a huge

area, ... [and] we would have to figure out ... what areas, what species, [and] how [to] ... - in the data - sort out what was incidental catch and what was targeted; [there are] so many species, so many areas, so many different gear types, that it's going to be extremely complicated, data-wise.

REPRESENTATIVE GARA asked what kind of permanent limitation might be instituted after the moratorium.

MS. McDOWELL indicated that there would be several options available. In response to another question, she noted that Section 9 of Version X statutorily creates a moratorium.

REPRESENTATIVE WILSON relayed a concern that instituting a vessel-based moratorium for the fisheries referenced in the bill will result in all future entry permit programs being vessel-based.

MS. McDOWELL said such would not be the case, but acknowledged that many share that concern. In an effort to allay that concern, which she characterized as unnecessary, she pointed out that regardless of what criteria the moratorium is based on - person, vessel, or a combination of both - the fish data collected during the moratorium will be the same because it comes in on fish tickets, which are in the name of the vessel operator, or the IUP holder. In response to another question, she noted that the CFEC doesn't have the authority to institute a vessel-based permit system without first getting legislative approval.

Number 0193

ALAN PARKS, Commercial Fisherman, relayed that he has been involved in the commercial fishing industry since 1975, has participated in catching halibut, crab, shrimp, salmon, and herring in just about every major fishery in the state - from the GOA, Bering Sea, and Aleutian Islands - and under just about every imaginable scenario with regard to business relationships - he's been a crewmember, a skipper, a hired skipper, a boat owner, and has hired skippers and leased boats. He said he is not supportive of a vessel-based moratorium. He suggested that it is important for committee members to look back on the principles of fisheries allocation since statehood and since the enactment of limited entry. He opined that if a moratorium must be put in place, it should be participant-based, and that the

number of eligible people under any scenario is not going to be the sole determining factor for who gets to go fishing.

TAPE 04-25, SIDE A

Number 0001

MR. PARKS indicated that one's market - for example, whether a processor is willing to buy one's fish - can also be a determining factor in whether one will be able to go fishing. He noted that a vessel-based limited-entry system was established for Korean hair crab fishery at the request of the CFEC, and predicted that establishing a vessel-based moratorium for groundfish in the GOA will lead to the CFEC later recommending a vessel-based limited-entry system. Opining that it is not in the state's best interest to consider the federal government's rationalization regarding the federal waters of the GOA, he offered a personal example wherein his pay as a crewmember aboard a union vessel out of Seattle was cut by 60 percent when the rights to the resource were switched over to [an absentee owner] in a vessel-based system. In conclusion, he characterized the state of Alaska as the leader in conservation, warned the committee against going down the same road the federal managers have taken, said he really appreciates all the hard work the committee has done on this issue, and suggested that to keep things simple, the moratorium should be individual-based.

Number 0290

GERRY MERRIGAN, Prowler Fisheries, noted that he is also a member of the Board of Fisheries' GAO groundfish rationalization committee, and said that he supports the original version of SB 347 though he might also support Version X because it contains language regarding vessel-based criteria. He predicted that a moratorium which is solely individual-based will result in approximately 30 percent more participants, and characterized such a situation as a "de-rationalization program." He suggested that members remain clear that a moratorium is not synonymous with the licensing program or the rationalization program. The timeout period provided by the moratorium will provide the time in which to determine whether a particular fishery's licensing program should be vessel-based or individual-based, but the moratorium itself will not force the state into any particular rationalization program.

MR. MERRIGAN then read portions of the handout provided by the Board of Fisheries regarding its findings, and suggested that

when discussing capacity, it is the vessel that needs to be considered, not the individual, and that having a vessel-based moratorium in some fashion will preclude people from jumping to larger vessels. He said he supports giving the CFEC general moratorium authorization. He noted that the Board of Fisheries' GAO groundfish rationalization committee is still adjudicating "maximum number of crab permits" from Southeast Alaska from the early '80s, and attributed this backlog to the un-workability of the "existing limited-entry moratorium system." In conclusion, he opined that a statutory moratorium is the best option, and said he supports moving ahead, particularly since the CFEC, the ADF&G, the NPFMC, and the Board of Fisheries all appear to be mostly in agreement on this issue.

Number 0613

JOE CHILDERS, Director, Western Gulf of Alaska Fishermen, mentioned that he's already testified during a prior hearing, and asked the committee to reflect carefully upon Mr. Merrigan's last comment regarding the fact that all the various groups that have to work together on this issue are in agreement.

Number 0693

JULIE BONNEY, Alaska Groundfish Data Bank, said her biggest concern is that the bill move forward. A lot of people have done a great amount of work on this issue even before the bill got to the legislature because they believed it would provide the state with an important tool in keeping fisheries economically viable while dealing with the concept of federal rationalization. She indicated that although she still has a preference for a solely vessel-based moratorium, she is in support of Version X because it provides a compromise and, as such, is a good thing. She offered her belief that the drafters of Version X have included as much flexibility as possible, and that the period of time proposed for information gathering will result in it being accomplished in a timely fashion.

Number 0864

JASON M. KOONTZ, Commercial Fisherman, predicted that if a solely vessel-based program is instituted, it will lead the state down the road towards corporate absentee ownership, and suggested that such a program will limit his ability to earn a living. He recommended mirroring what the NPFMC ends up proposing, and use of an individual-permit-based program as a

viable solution, adding that he does not support a vessel-based program.

Number 1038

ALEXUS KWACHKA, Gulf Groundfish Fishermen's Association; Crewmember's Association, relayed that the Gulf Groundfish Fishermen's Association represents about 156 people, and that the Fishermen's Association represents about 238 people. He indicated that neither organization supports a vessel-based system, and suggested that if a limitation is established, it should recognize the individuals that have participated in a particular fishery, not the vessels. He noted that the federal program has no provision regarding skipper or crew, that it pertains solely to vessels, and opined that such encourages "absentee ownership."

MR. KWACHKA expressed a preference for an individual-based moratorium, rather than a vessel-based moratorium, and opined that the Board of Fisheries has plenty of tools at its disposal for limiting participation, which, he suggested, will also be limited by economic factors, just as has occurred in Kodiak's salmon fisheries. In conclusion, he characterized the pot fishery and jig fishery as very successful, and said, "I think when you look at the fuel consumptions by trawl vessel versus a pot boat, you're going to see that the economics will not permit them to go into these fisheries - it just doesn't work for them the way it works for the smaller vessels of the communities here.

Number 1302

JULIE KAVANAUGH, Owner/Operator, F/V Silvia Star, expressed a preference for an individual-based moratorium or, as a second choice, a combination of an individual-based and vessel-based moratorium, rather than an exclusively vessel-based moratorium. She, too, mentioned that there is a concern that by establishing moratorium that is strictly vessel-based, the CFEC is indicating a preference for instituting a vessel-based permit system in the future.

Number 1412

JEFFREY R. STEPHAN, United Fishermen's Marketing Association, Inc. (UFMA), said the UFMA supports a vessel-based moratorium but has no objection to including an individual-based moratorium in the bill as well. He opined that a moratorium is in the best

interest of Alaska vessels and residents, and that this bill in particular will protect their standing in any federal rationalization program. He suggested that the Board of Fisheries should be provided with as many options as possible so that it is not limited in its ability to preserve the standing of Alaska vessels.

[SB 347, Version W, was held over; the motion regarding adoption of Version U as a work draft and the objection to that motion were left pending; the motion regarding adoption of Version X as a work draft and the objection to that motion were left pending.]

ADJOURNMENT

Number 1558

The House Special Committee on Fisheries was recessed at 11:02 a.m. to a call of the chair. [The meeting was reconvened April 21, 2004.]