

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

April 7, 2015

5:01 p.m.

MEMBERS PRESENT

Representative Louise Stutes, Chair
Representative Neal Foster
Representative Bob Herron
Representative Craig Johnson
Representative Charisse Millett
Representative Jonathan Kreiss-Tomkins
Representative Dan Ortiz

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 110

"An Act providing priority to personal use fisheries when fishing restrictions are implemented to achieve a management goal."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 10

Supporting the Alaska Maritime Workforce Development Industry Advisory Committee and further efforts to carry out the Alaska Maritime Workforce Development Plan.

- MOVED CSHCR 10(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 119

"An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date."

- MOVED HB 119 OUT OF COMMITTEE

HOUSE BILL NO. 179

"An Act relating to donations of fish and game to food service programs."

- MOVED CSHB 179(FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 110

SHORT TITLE: PERSONAL USE FISHING PRIORITY

SPONSOR(s): REPRESENTATIVE(s) NEUMAN

02/18/15 (H) READ THE FIRST TIME - REFERRALS
02/18/15 (H) FSH, RES
04/07/15 (H) FSH AT 5:00 PM CAPITOL 120

BILL: HCR 10

SHORT TITLE: MARITIME WORKFORCE DEVELOPMENT

SPONSOR(s): REPRESENTATIVE(s) STUTES

03/18/15 (H) READ THE FIRST TIME - REFERRALS
03/18/15 (H) FSH
04/07/15 (H) FSH AT 5:00 PM CAPITOL 120

BILL: HB 119

SHORT TITLE: LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/20/15 (H) READ THE FIRST TIME - REFERRALS
02/20/15 (H) FSH, RES, FIN
04/02/15 (H) FSH AT 5:00 PM CAPITOL 120
04/02/15 (H) -- MEETING CANCELED --
04/07/15 (H) FSH AT 5:00 PM CAPITOL 120

BILL: HB 179

SHORT TITLE: FOOD PROGRAM DONATIONS; FISH AND GAME

SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

04/01/15 (H) READ THE FIRST TIME - REFERRALS
04/01/15 (H) FSH, RES
04/06/15 (H) RES AT 1:00 PM BARNES 124
04/06/15 (H) <Pending Referral>
04/07/15 (H) FSH AT 5:00 PM CAPITOL 120

WITNESS REGISTER

DARRELL BREESE, Staff
Representative Mark Neuman
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented CSHB 110, on behalf of Representative Neuman, prime sponsor.

ANITA SHOLL, Staff
Representative Louise Stutes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained changes to CSHCR 10, Version H, on behalf of Representative Stutes, prime sponsor.

GREG PAVELLAS, Co-Chair
Industry Advisory Committee (IAC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSHCR 10.

STEVEN ANGASAN

Naknek, Alaska

POSITION STATEMENT: Testified in support of CSHCR 10.

ANNA LATHUM, Legislative Liaison
Office of the Commissioner
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSHCR 10, answered questions.

REPRESENTATIVE ANDY JOSEPHSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 119, as prime sponsor.

DAVID HARSILA, President
Alaska Independent Fisherman's Marketing Association (AIFMA)
Seattle, Washington

POSITION STATEMENT: During the hearing on HB 119, testified in support of HB 119.

REID MAGDANZ, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on CSHB 179, offered testimony regarding changes to Version E.

MAX WORHATCH
Petersburg, Alaska

POSITION STATEMENT: During the hearing on CSHB 179, testified in opposition.

SETH BEAUSANG, Attorney
Natural Resources Section
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: During the hearing on CSHB 179, answered questions.

JERRY McCUNE
Cordova District Fishermen United (CDFU)
Cordova, Alaska

POSITION STATEMENT: During the hearing on CSHB 179, offered testimony.

LORINDA LHOTKA
Food Safety & Sanitation Program
Division of Environmental Health
Department of Environmental Conservation (DEC)
Fairbanks, Alaska

POSITION STATEMENT: During the hearing on CSHB 179, answered questions.

ACTION NARRATIVE

[5:01:27 PM](#)

CHAIR LOUISE STUTES called the House Special Committee on Fisheries meeting to order at 5:01 p.m. Representatives Herron, Ortiz, Johnson, Millett, and Stutes were present at the call to order. Representatives Foster and Kreiss-Tomkins arrived as the meeting was in progress.

HB 110-PERSONAL USE FISHING PRIORITY

[5:03:01 PM](#)

CHAIR STUTES announced that the first order of business would be HOUSE BILL NO. 110, "An Act providing priority to personal use fisheries when fishing restrictions are implemented to achieve a management goal."

[5:03:16 PM](#)

DARRELL BREESE, Staff, Representative Mark Neuman, Alaska State Legislature, presented HB 110, and said that subsistence is the

highest priority fishery in the State of Alaska, and that a priority must be adopted for Alaska's resident personal use fishing. The intent is that the Board of [Fisheries], when making decisions, will first consider subsistence, and second, consider personal use fisheries, and all other fisheries after that. He stressed that personal use and subsistence are the only two Alaska resident only fisheries, and all other fisheries allow anyone from any location to fish. He stated that these two fisheries are geared for people to feed their families, and explained that all the fish caught for these purposes must be consumed by those catching the fish. Commercial fisheries is a vital part of Alaska's economy and the sponsor does not object to any commercial fishing, he related, and sports and recreational fisheries provide great economic benefits to the communities with thriving fisheries throughout the state. He said subsistence and personal use people are also vital parts of the fisheries and recognize the importance they have in the state as well, and for the board to consider personal use before making any decisions for closures or reduction in catch limits to achieve a management or escapement goal. With regard to management when fish stock and return is not significant enough to support the fisheries, he said, the number one goal is to continue to maintain a thriving fisheries, which sometimes means a fishery must be closed down. Recently the fisheries have been in a time of abundance, and even when there have been downturns in some fisheries there has always been fish in the rivers which must be preserved, including crab fisheries, clams, and other shellfish viable in Southeast fisheries, he said.

[5:06:49 PM](#)

REPRESENTATIVE ORTIZ commented that clearly through the years of management of fish and game the common thread has been that the State of Alaska does the best job of managing the fisheries with preservation and conservation of the resources at the forefront of its decisions. He opined this is accomplished with a variety of interest groups interests in mind and should the bill pass, it would change the way management is looked at as [the board] would have to prioritize personal use first. He questioned why management should be changed in that fish is considered to be one of the best managed resources around the world.

[5:08:13 PM](#)

MR. BREESE clarified that subsistence is statutorily the first priority, and HB 110 adds personal use as the second priority when making management decisions. He said the constitution

reads that resources are available for the people, and the intent of the bill is to ensure that the people of Alaska, in a time of a crunch and the fishery is in a bad shape, can still fish to feed their families, whether through subsistence or personal use. He pointed out that in Alaska, the fisheries are managed so well that fish are available for commercial fishermen, sports fishermen, recreational fishermen, and personal use fishermen. Requiring implementation of this bill, should it pass, would not be ideal but the future is unknown and there may be a time that a fishery must be closed to rebuild the stock, he stated. Therefore, he conveyed, it may be important to allow personal use fishing and limit sport fishing and commercial fishing areas impacting that salmon stream, or fishery, and noted that closing some fisheries could put pressure on healthier run areas. He explained that when a fishery is struggling and the Board of Fisheries must make a decision, that its second priority be for personal use. The commercial, sports and recreational fisheries may require restricting, but these fisheries are not dependent on use as their sole source to feed their families, as with subsistence, he opined. He said the bill will provide a tool for use at the appropriate time.

CHAIR STUTES announced HB 110 is held in committee.

HCR 10-MARITIME WORKFORCE DEVELOPMENT

[5:14:01 PM](#)

CHAIR STUTES announced that the next order of business would be HOUSE CONCURRENT RESOLUTION NO. 10 Supporting the Alaska Maritime Workforce Development Industry Advisory Committee and further efforts to carry out the Alaska Maritime Workforce Development Plan.

[5:14:17 PM](#)

REPRESENTATIVE MILLETT moved to adopt CSHCR 10, labeled 29-LS0709\H, Wayne, 4/2/15, as the working document.

CHAIR STUTES objected for discussion.

[5:14:49 PM](#)

ANITA SHOLL, Staff, Representative Louise Stutes, Alaska State Legislature, said that Version H makes a title change to reflect the addition of the Alaska Workforce Investment Board and the

Alaska Vocational Technical Education Center in Seward. She pointed out that the change includes the supporting language for the Alaska Workforce Investment Board and the Alaska Vocational Technical Education Center in Seward which has been added to the body of the resolution.

CHAIR STUTES removed her objection, and without further objection, Version H was before the committee.

CHAIR STUTES opened public testimony.

[5:15:55 PM](#)

GREG PAVELLAS, Co-Chair, Industry Advisory Committee (IAC), said he in representing the Industry Advisory Committee (IAC) and the Alaska Maritime Workforce Development Plan, and paraphrased the following statement:

This is the first comprehensive effort to understand and address the workforce development needs in Alaska's maritime industry. As defined in the plan, the maritime industry includes seafood harvesters, seafood processors, fisheries research, enhancement in management, marine transportation, ship building and repair, and marine support services. Collectively, this sector in Alaska is the largest private employer with more than 500 firms statewide in a workforce of over 68,000 people. Until now these occupations have not been formally characterized as a unique and related workforce. The plan is a guide and call to action for the private sector, government, education, and workforce development entities to forge a partnership dedicated to building a globally competitive maritime workforce in Alaska.

[5:17:21 PM](#)

MR. PAVELLAS continued:

The goals of the Alaska Maritime Workforce Development Plan are to help sustain and enhance the economy of Alaska and its communities by: (1) developing a responsive workforce that enables the maritime industry to endure as a substantial contributor to the state; (2) guiding Alaska's workforce to discover and prepare for the wide range of employment opportunities in the maritime industry; and (3) increasing the

number of Alaskans working in skilled maritime occupations and earning a family wage. Employers surveyed during the development of the plan noted that the number of Alaskans with the necessary skills to fill the available maritime positions is too low to meet the demand. The plan offers a pathway to increase the number of Alaskans working in the high demand, high wage occupations that exist in Alaska's maritime industry. To ensure successful implementation of the plan, a collaboration is being formed between business, industry, local, state and federal governments, and philanthropic foundations, as the collaboration is being modeled on successful economic and workforce development best practices. Through HCR 10 the legislator is encouraging persistence and stating to Alaskans that by working smarter with existing training and educational resources that greater benefits can accrue to the citizens of the maritime industries of our state. The legislature concurs with the goal to drive outcomes that improve maritime related job opportunities for Alaskans while strengthening the economic [benefits] of Alaska's maritime industry.

[5:19:42 PM](#)

STEVEN ANGASAN, Commercial Fisherman, stated support for HCR 10 and said it is important to encourage and increase the amount of local workers entering the Bristol Bay fishing industry. He expressed there is an alarming statistic within seafood processing that there are 2,289 seafood processing jobs in the Bristol Bay Borough, of which 209 are held by locals, and 2,080 are held by non-locals. He said, "We are part of the original, they used to call it MSIT movement in the beginning," and appreciates that the original training centers will be part of this movement (indisc.) is fisheries jobs training. He thanked the committee for making fisheries a priority in the state.

CHAIR STUTES closed public testimony after ascertaining no one further wished to testify.

[5:22:42 PM](#)

REPRESENTATIVE JOHNSON noted the bill requires a report to the legislature and asked whether it will require a fiscal note.

MS. SHOLL responded that the bill carries a zero fiscal note.

REPRESENTATIVE JOHNSON asked whether there is a report this can tag onto, because if a report must be generated there will be a cost.

MS. SHOLL said she does not have the answer but will get back to the committee.

[5:23:44 PM](#)

The committee took a brief at ease.

[5:23:58 PM](#)

ANNA LATHUM, Legislative Liaison, Office of the Commissioner, Department of Labor & Workforce Development, said the department submitted a zero fiscal note as minimal resources will be required to submit the report.

REPRESENTATIVE JOHNSON encouraged the department, in the future, when minimal work is required to provide a zero fiscal note.

[5:24:56 PM](#)

REPRESENTATIVE MILLETT moved to report CSHCR 10, labeled 29-LS0709\H, Wayne, 4/2/15, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHCR 10(FSH) moved from the House Special Committee on Fisheries.

[5:25:29 PM](#)

The committee took an at-ease from 5:25 a.m. to 5:26 a.m.

HB 119-LEG. APPROVAL OF BRISTOL BAY SULFIDE MINE

[5:26:52 PM](#)

CHAIR STUTES announced that the next order of business would be, HOUSE BILL NO. 119 "An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date."

[5:27:17 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, presented HB 119 as prime sponsor, and reminded the committee that in November 2014, Alaskans voted overwhelmingly to pass

Ballot Measure 4, requiring legislative approval of any large scale mine within the Bristol Bay Watershed. Throughout the campaign, this issue was mining versus fish, and Alaskans declared that in this location, with this mine, they are not willing to jeopardize the fishery. He explained that HB 119 calls for a comprehensive review by the Department of Natural Resources (DNR), Department of Fish & Game (ADF&G), and Department of Environmental Conservation (DEC), and requires each commissioner to find "beyond a reasonable doubt" that any proposed metallic sulfide mining not presently permitted, larger than 640 acres in size, poses no threat to the fishery. He advised that the concept is based upon the Bristol Bay Forever Initiative, which was based upon the language of the 1972 Jay Hammond, Bristol Bay Fisheries Reserve law, and noted that the 1972 law included a requirement that any oil and gas developments in the Bristol Bay region receive legislative approval, and this legislation extends this requirement to mines in the same area. The bill also clarifies what is meant by fisheries in a far more comprehensive manner than the 1972 law or the initiative, he explained. He said that given this bill impacts the citizens' initiative, he touched on the constitutional aspects in that the case law in amending an initiative primarily is the Warren I, and Warren II decisions concerning potential rollbacks of initiative language. Obviously this bill does not rollback the language of the initiative, but gives it more teeth, he offered.

[5:29:19 PM](#)

REPRESENTATIVE JOSEPHSON provided a section analysis, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

Section 1: Requires development of regulations concerning legislative approval. Defines the meaning of "fisheries" and "permits and authorization".

Section 2: New subsection requires the commissioners of the Department of Fish and Game, Department of Environmental Conservation, and Department of Natural Resources to make independent determinations that any large-scale metallic sulfide mining will pose no danger to the fisheries.

Section 3: Adds immediate effective date.

[5:29:22 PM](#)

REPRESENTATIVE JOSEPHSON stated that Section 1 broadly defines a variety fisheries, and the Bristol Bay Fisheries Reserve includes subsistence, commercial, personal use, and a great deal of sport fishing, and it also creates the definition for permits and authorizations. He then referred to Section 2, and advised this section reads "prior to legislative authorization, which is a current requirement for a large-scale metallic mine, and commissioners must make an independent finding that beyond a reasonable doubt any proposed mine constitutes no danger to the fisheries." Following that [finding], is a judicial review of the permits and authorizations and, he explained, the matter would then move to the legislature as called for in the initiative. He pointed out that the bill calls for a reconsideration of the legislative approval if there has been significant, but not minor, changes to the permits and authorizations previously granted which would entail each of the three commissioners making a revised, independent determination that an applicant has proven beyond a reasonable doubt that a large-scale mine will not constitute a danger to the fisheries. He noted the burden remains on the mining operation and not on the State of Alaska. He remarked that this section also calls for an inter-agency process wherein each department engages in information sharing while conducting their own separate and independent analysis of the efficacy of the mine relative to impacts on fisheries. Additionally, he said, a peer review process will be conducted in order that the findings of each department can be scientifically proven as reliable and verifiable.

[5:31:11 PM](#)

REPRESENTATIVE JOSEPHSON continued by discussing the standard of review suggested by the legislation, in that currently in Alaska law, the beyond a reasonable doubt standard can be seen in many civil context, as it is not just a criminal standard, including Child in Need of Aid cases, Indian Child Welfare Act cases, and many cases involving hospitalization commitment. He referred to two personal injury actions where the beyond a reasonable doubt standard was used: one involving DNA testing wherein involving sexual abuse by members of the clergy; and an Alaska Supreme Court case involving wage and hour employment classification. He explained it fits into the natural resources context because beyond a reasonable doubt standard was used in forestry laws in Washington State, and there is a Pennsylvania mining law implementing beyond a reasonable doubt. In Pennsylvania law, § 86.102. "Areas where mining is prohibited or limited," there is

a prohibition on surface mining operations within 100 feet of the bank of a perennial or intermittent stream, which read:

(12) ... The Department may grant a variance from this distance requirement if the operator demonstrates beyond a reasonable doubt that there will be no adverse hydrologic impacts, water quality impacts or other environmental resources impacts as a result of the variance...

5:32:50 PM

REPRESENTATIVE JOSEPHSON offered that within Title 5 AAC, the Board of Fisheries has created a series of regulations using the "precautionary approach" for management of Alaska's fisheries which is part of a comprehensive policy for the regulation and management of sustainable salmon fisheries. He quoted, "It is the goal of the policy ... in Title 5, ... under this section to ensure conservation of salmon and salmon's required marine and aquatic habitats protection of customary and traditional subsistence uses and other uses." The Chairman of the Board of Fisheries, he said, took an express position in a letter to the legislature on January 10, 2010, which read, "The legislature should enact any additional safe guards which are considered prudent to provide strict protections to the fish and game habitat of the drainages ... again, this is about Bristol Bay drainages ... to prevent any chance of environmental damage." He referred to the \$10,000 fiscal note and explained that the others get more substantial, but not extremely substantial and offered that the \$10,000 is currently in DNR, and the others refer to the out years of 2019 having a fiscal impact. He submitted that if the mines are postponed there would be no impact until further down the road.

5:34:45 PM

REPRESENTATIVE JOSEPHSON opined that some have said this bill will help insulate and protect the state from litigation and liability in the event a mine, of the size in question, is permitted and developed and problems arise from that mine impacting any fishery. The argument there is, "We had this incredibly strict standard, don't pick on us if it goes badly." In summary, he related, without this bill commissioners would be free to use a much lower standard as they review permits and commissioners would more easily define the fishery as being commercial fishery, and not other fisheries. He pointed out that the 1972 law does not define subsistence fishery as

something the legislature should consider. He remarked that without the bill: only DNR would prepare a report to the legislature as called for under the initiative whereas this bill requires that DEC and ADF&G commissioners are involved; regulations could be adopted allowing the state to take the burden on its shoulders rather than keeping the burden with the producers; the legislature would get one bite at the apple even though a mine could expand, evolve, and change as they so often do; and the express right to judicial review would be absent. He opined that the permitting process is intended to strike a balance between common values, such as economic development and conservation, but the process sometimes favors the better financed interests of industry as evidenced by the very small number of permits denied to projects over the last ten years. For example, he said, within a research report spanning the last ten years prepared by the Division of Mining, Land, and Water, 108 out of 7,971 permits were denied, but acknowledged that some are denied due to withdrawal, but that actual denials are "extremely" uncommon. He noted that these measures are intended to reduce the risk of development to a tolerable level; however, in this case the bill reads that the risk must be even lower. He stated that, "For this particular fishery in this particular place we must exercise an overabundance of caution," and offered that members may disagree with this measure, but it is within the scope of this committee as it relates to the preservation and protection of one of Alaska's most prized resources. He stressed that HB 119 is not an anti-mining bill but rather about protecting these fish in this particularly sensitive and special area. The legislature needs the best scientific product before it comes up on the legislature's floors for final approval of a large-scale mine in Bristol Bay, he opined.

[5:38:26 PM](#)

REPRESENTATIVE HERRON pointed out that Representative Josephson clearly articulated that this legislation is needed because there could be a DNR commissioner and a legislature not paying attention, and there could be vote of legislative approval, and asked whether that would be by simple majority.

REPRESENTATIVE JOSEPHSON answered that it is by simple majority under the initiative.

REPRESENTATIVE HERRON noted that Representative Josephson could have the bill require two-thirds.

REPRESENTATIVE JOSEPHSON responded, tongue in cheek, that he views that suggestion as a friendly amendment. He described this is a good, necessary, and ambitious bill, and such an amendment would make it even more ambitious. He opined that if there is a meritorious project, these three commissioners will make that determination in peer review. He noted that the potential mines at issue are any within the Jay Hammond Reserve, and the mine that "everyone has heard about" has said fish first, which he agrees with.

[5:39:56 PM](#)

REPRESENTATIVE HERRON referred to Section 2, noting it does not explain whether a minority of those commissioners can [negate] it.

REPRESENTATIVE JOSEPHSON explained that should DNR and DEC, subsequent to a peer review, determine there is beyond a reasonable doubt no chance of damage to a fishery of any sort, and ADF&G determines it is a threat, that determination would deny the project and; therefore, it would not come before the legislature.

[5:40:48 PM](#)

REPRESENTATIVE MILLETT asked whether Representative Josephson is uncomfortable with Alaska's current permitting process for large-scale mines, or has there been a problem with DNR, DEC, or ADF&G in their recent findings with permitting mines.

REPRESENTATIVE JOSEPHSON agreed he is uncomfortable with the current process, and advised that in 2013 Legislative Legal and Research Services prepared a document offering an overview of changes in the last 13 years in the regulatory process. He cited a number of projects and how they were handled, which included: the Coastal Zone Management Repeal, new mixing zones allowing for toxins in an anadromous streams which were not allowed prior to House Bill 160 (2003) making changes to Title 18 AAC, and House Bill 129 which read, "We're only going to review oil and gas leases at the outset for 10 years, no public comment during that period." He advised there have been a series of decisions from the Supreme Court, and legislation that has gone in the opposite direction, and he has concerns.

[5:42:18 PM](#)

REPRESENTATIVE MILLETT asked Representative Josephson to point to a permitted large-scale mine in the last ten years wherein he believes fish required protection.

REPRESENTATIVE JOSEPHSON listed concerns with the Illinois Creek Mine [located in the Kaiyuh Mountains, west-central Alaska], and the Rock Creek Mine located on the Seward Peninsula, as both mines never came to fruition yet dirt was turned and \$20 million of remediation is necessary on the Seward Peninsula. He questioned whether Alaska has enough boots on the ground to monitor, and referred to the Pebble Mine that self-reported 44 water violations and expressed concern because Pebble Mine self-reported the violations and Alaska was not aware of the problems. The trans-boundary issue is a real concern for Southeast Alaska, and he opined that the administration is concerned.

[5:43:21 PM](#)

REPRESENTATIVE MILLETT inquired why Representative Josephson would not put a bill forward changing the permitting process rather than presenting HB 119 with a large fiscal note. She opined that if there was another large mine that went to permitting it would raise the state's cost incredibly. She stressed that the legislature is cutting education, yet he wants to add mine permitting to the pile of money Alaska does not have just in case someone comes forward to permit a large mine because he is uncomfortable with the manner Alaska permits mines. She suggested moving toward permitting changes rather than another study and layer of government that is scaring industry away from the State of Alaska.

REPRESENTATIVE JOSEPHSON responded that new permits would also be another layer of regulations with costs, and he does not know whether that remedy would change much of the result. Statistics show permits are generally granted, although with tough conditions, he acquiesced. He reiterated that given Alaska has the best wild salmon fishery on the planet, it is smart thinking when three commissioners review preliminary permits and the "whole thing" in total, and make an independent finding with a peer-reviewable inter-agency review.

[5:45:06 PM](#)

REPRESENTATIVE MILLETT asked what amount of time this would add to a large mine project in realistic terms. Bristol Bay Pebble Mine had multiple studies which was not enough so where do the

studies stop - until there is a piece of data that can stop a complete mine, she questioned.

REPRESENTATIVE JOSEPHSON responded the answer to Representative Millett's second question would be after HB 119 is passed is where to stop. With respect to her first question, he could only surmise that it could be six months, but stressed that people and legislators are entitled to confidence in the process.

CHAIR STUTES opened public testimony.

[5:46:30 PM](#)

DAVID HARSILA, President, Alaska Independent Fisherman's Marketing Association (AIFMA), testified in support of HB 119, and said the Alaska Independent Fisherman's Marketing Association (AIFMA) board met with mining officials from a prominent company approximately 10 years ago and advised its permitting process research in Alaska indicated the State of Alaska would never deny permits, which referred to large-scale open-pit mines that would be developed in Bristol Bay Watershed. Its explanation and confidence about Pebble Mine convinced the AIFMA board, at that time, that this was a significant and a real issue, he conveyed. Since that time AIFMA has been searching to provide a higher standard when applications for large-scale open-pit mines are considered and the opportunity to address this issue is now, before a permit application is received, and before a mine is developed as opposed to after the fact. He pointed out that the largest natural run of Sockeye Salmon in the entire world resides in the Bristol Bay Watersheds, and it is at stake. He urged the committee to protect the Bristol Bay Watershed from large-scale open-pit mining and the damages it could incur.

CHAIR STUTES closed public testimony after ascertaining no one further wished to testify.

[5:49:28 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to report HB 119, labeled 29-LS0424\H out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE MILLETT objected.

[5:49:54 PM](#)

A roll call vote was taken. Representatives Foster, Ortiz, Kreiss-Tomkins, and Stutes voted in favor of HB 119. Representatives Johnson and Millett voted against it. Therefore, HB 119 passed and was reported out of the House Special Committee on Fisheries by a vote of 4-2.

[5:50:30 PM](#)

The committee took an at-ease from 5:50 p.m. to 5:52 p.m.

HB 179-FOOD PROGRAM DONATIONS; FISH AND GAME

[5:52:45 PM](#)

CHAIR STUTES announced that the final order of business would be, HOUSE BILL NO. 179 "An Act relating to donations of fish and game to food service programs."

[5:53:00 PM](#)

REPRESENTATIVE MILLETT moved to adopt CSHB 179, labeled 29-LS076\E as the working document.

CHAIR STUTES objected for discussion.

[5:53:26 PM](#)

REPRESENTATIVE KREISS-TOMKINS presented the CS for HB 179, Version E, and said the bill allows people to donate sport or subsistence harvested food to non-profit meal programs, such as senior centers, pre-schools, or schools. He paraphrased the following summary of changes, [original punctuation provided], as follows:

Defines and uses "covered organization" to mean the list of organizations in section 3(4) of the prior version (version A) that are allowed to accept donations of wild food for their meal service programs. Expands the list of covered organizations listed in the prior version to add private schools; public, nonprofit, and private child care facilities, including preschools and head start programs; licensed residential psychiatric treatment centers; a wider variety of senior center facilities; and senior meal programs.

Defines and uses "covered food item" to mean the food allowed to be donated to a covered organization under section 1 of version A, now section 1(b) of version E.

Moves definition sections from Title 17 to Title 16. Defines additional terms.

Removes personal use fish from the list of covered food items that can be donated. This means the status quo rules remain in place for personal use caught fish.

Makes clear that all game, marine or aquatic plants, and nests or eggs of fish and game, not just those harvested for subsistence or sport, can be donated under the bill.

Explicitly allows a covered organization to accept state funding, federal funding, and fees from staff and users for meals containing covered food items. Explicitly bars a covered organization from accepting payment for meals provided to people who are not staff or users, including the general public. Users are individuals a covered organization serves.

Removes the specific language on food safety in Section 4(a) of version A. Discussions with DEC led to the conclusion that this language was better left to regulation.

Standardizes language between the sections of the bill in Title 16 and Title 17, so that all sections refer to covered organizations and covered food items.

Moves language on indemnification from liability for covered organizations to the existing section providing indemnification to food banks, rather than creating a separate section.

[5:54:03 PM](#)

REPRESENTATIVE KREISS-TOMKINS advised that a large change in Version E removes any mention of personal use in the bill. Other changes, he said, clarify the eligibility of organizations. He explained that the Department of Environmental Conservation (DEC) currently has regulations as to how people can donate sport or subsistence food to, for example

food banks, and advised the bill allows DEC to continue that flexibility through regulations.

[5:55:05 PM](#)

REID MAGDANZ, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, said that word choices and definitions are different in Version E than within Version A, due to a change in drafting attorneys. He explained the following changes: the term "covered organization" was added to define which organizations are eligible to receive these donations; "covered food item" refers to eligible foods to donate; more of the language was pulled into Title 16 - wherein Version A had a significant amount of language pulled from Title 17, which puts everything in one place and standardizes the definitions across those titles; and clarification language was included to ascertain the bill fully reflects the intent and sponsor statement.

CHAIR STUTES opened public testimony.

[5:56:57 PM](#)

MAX WORHATCH, testified in opposition for HB 179, and advised he is a sports, subsistence, and personal use fisherman and a hunter. He stated he is not opposed to benefiting non-profits, but the bill creates a whole new user group for Alaska's resources. He opined that in speaking with Representative Kreiss-Tomkins determined the bill is more for villages and outlying areas; therefore, the problem is that it is a state law and Petersburg's fish and game resources are being used to their full capabilities. He expressed that any sport fish donated or served to schools should come from the highly regulated commercial industry where the Department of Environmental Conservation (DEC) and the United States Department of Agriculture (USDA) food approved processing capabilities are required and adhered to. He referred to game and said he is opposed, although it would be nice for Alaska's children to eat deer chops at lunch the problem is that the chain of custody and care of the meat is too vague for him. When it comes to management of the resources involved, he said, it would lead to an increase in harvests which complicates management and may preclude people from harvesting meat for the needs of their family.

[5:58:42 PM](#)

REPRESENTATIVE MILLETT clarified that this bill does not increase the amount of bag limits or fish to be taken, in that a person must stay within the Department of Fish & Game (ADF&G) rules and regulations. For example, she remarked, she can only take her eligible two King Salmon but can donate one of the salmon to a non-profit.

REPRESENTATIVE KREISS-TOMKINS stated her comment is accurate in that the bill does not touch on allocations.

MR. WORHATCH argued that there is no annual limit for sport fish, not King Salmon, but for other species an individual is allowed six salmon per day, every day of the year. In that regard, he related, fishermen could fish their daily limit and donate the catch, which could cause an increase in demand around larger communities, such as Juneau, Petersburg, Wrangell, or Ketchikan where local users do not have to go out far in the ocean to fulfill their needs. He opined that as more fish are taken out of that area, there will be less for everyone.

[6:00:40 PM](#)

REPRESENTATIVE MILLETT pointed out that currently people could fish their six salmon every day and ship it to their family in the lower-48 if they wanted to, it does not change any allocation.

MR. WORHATCH responded that he does not know how that works, and opined that even though personal use is not being addressed, a sport fishing Alaskan resident falls under personal use regulations. He said he is unclear as to whether an Alaskan is allowed to send a huge amount of fish out of the state.

[6:01:51 PM](#)

SETH BEAUSANG, Attorney, Natural Resources Section, Department of Law (DOL), responded there is no clear answer to the question of whether an individual can send their daily catch to the lower-48, in that sport fishing is defined in state statute as taking or attempting to take for personal use, and not for sale or barter. He remarked that in the past, the Department of Law (DOL) has advised that in taking sport caught fish for personal use there is limited amount of sharing allowed. He said whether it would be permissible to share on the above-mentioned scale, there is no clear answer in the law.

[6:03:23 PM](#)

JERRY McCUNE, Cordova District Fishermen United (CDFU), offered that there are a couple salmon donations provided by CDFU, such as a senior salmon day, and donating fish to the school. He mentioned that they have the processors process the fish because the school uses the fish throughout the year; therefore, it can't be home vacuumed packed and must be commercially processed. He opined that while he understand the intent is to allow people to donate game, but on the fish side he is nervous about someone "willy nilly" taking fish out of their freezer at the end of the year and dumping it somewhere. He offered that for any public event wherein CDFU is serving salmon, it has been run through the DEC processor. He said the bill's intent is for a good cause, but he is cautious when it comes to fish.

[6:04:48 PM](#)

LORINDA LHOTKA, Food Safety & Sanitation Program, Division of Environmental Health, Department of Environmental Conservation (DEC), answered that (indisc.) currently, and they've (indisc.) for many years that a school could receive (indisc.) involving seafood and plants and that would include fish. She said they could receive the fish whole (indisc.) and then process them in a facility (indisc.) permanent space allows them to do that. They could also get fish donated from a commercial processor, she explained.

CHAIR STUTES said she heard that one way to donate is through a commercial processor, but could not hear the first way to donate in that the telephone line is muffled.

MS. LHOTKA said (indisc.) allow a school food service or a non-profit program to receive the fish whole, gutted, or gilled, and the school could process (indisc.) store at the school, food service, head-start, or a long-term care facility. She added that the regulations allow the school or food establishment to [process] it, or it can come from a commercial food processor.

CHAIR STUTES closed public testimony after ascertaining no one further wished to testify.

[6:06:49 PM](#)

REPRESENTATIVE ORTIZ asked what prompted the bill.

REPRESENTATIVE KREISS-TOMKINS responded that there is increased public interest in eating good local foods in Alaska with

nutritious foods for schools programs. He said his second motivation is that in some communities, variations of "what is described in this bill may, or may not, already be happening," which speaks to an existing reality in a significant number of Alaskan communities.

6:08:00 PM

REPRESENTATIVE HERRON pointed out that the witness from DEC said there are regulations where certain facilities can receive these donated goods, and asked what the bill is trying to expand.

REPRESENTATIVE KREISS-TOMKINS explained that a line in statute is changed by this bill, as currently if an individual wants to donate salmon to a food bank, for instance, it is allowed through DEC regulations. He said the food bank will give the food away without any monetary transactions, but there is an issue with a senior center where people may pay a nominal amount of money for their lunch which disallows that facility to engage in donated fish and game. The bill changes that and, he noted, DEC regulations are not being substantively altered.

REPRESENTATIVE HERRON said with regard to the senior center example, if a normal meal is \$5.00 and on that particular day are eating donated food, couldn't the value of the meal be reduced related to the donated food.

6:10:12 PM

REPRESENTATIVE KREISS-TOMKINS answered that institutions could create an internal policy allowing free meals when serving donated foods. He suggested clear segregated systems offering days of donated foods, and not donated foods.

CHAIR STUTES pointed out that fish and game donated meals include other side dishes in the meal wherein costs would be incurred through a senior center, and said she could see the point of this bill.

6:11:19 PM

REPRESENTATIVE FOSTER asked whether the term game includes marine mammals.

REPRESENTATIVE KREISS-TOMKINS deferred to attorney Seth Beausang.

MR. BEAUSANG responded that the definition of game in Title 16 does include marine mammals; however, the taking of marine mammals is highly regulated and generally prohibited by the federal Marine Mammal Protection Act of 1972, which would come into play.

CHAIR STUTES closed public testimony after ascertaining that no one further wished to testify.

CHAIR STUTES removed her objection and Version E was before the committee.

[6:12:46 PM](#)

REPRESENTATIVE MILLETT moved to report CSHB 179, labeled 29-LS076\E out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 179(FSH) passed from the House Special Committee on Fisheries.

[6:13:48 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 6:13 p.m.