

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

March 8, 2016

10:06 a.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. 251

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 251

SHORT TITLE: ELECTRONIC TAX RETURNS & FISHERIES TAXES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/16	(H)	READ THE FIRST TIME - REFERRALS
01/19/16	(H)	FSH, FIN
02/02/16	(H)	FSH AT 10:00 AM CAPITOL 120
02/02/16	(H)	Heard & Held
02/02/16	(H)	MINUTE (FSH)
02/11/16	(H)	FSH AT 10:00 AM CAPITOL 120
02/11/16	(H)	Heard & Held
02/11/16	(H)	MINUTE (FSH)
02/16/16	(H)	FSH AT 10:00 AM CAPITOL 120
02/16/16	(H)	-- MEETING CANCELED --
02/18/16	(H)	FSH AT 10:00 AM CAPITOL 120

02/18/16	(H)	Heard & Held
02/18/16	(H)	MINUTE (FSH)
02/23/16	(H)	FSH AT 10:00 AM CAPITOL 120
02/23/16	(H)	Heard & Held
02/23/16	(H)	MINUTE (FSH)
02/25/16	(H)	FSH AT 10:00 AM GRUENBERG 120
02/25/16	(H)	-- MEETING CANCELED --
03/08/16	(H)	FSH AT 10:00 AM GRUENBERG 120

WITNESS REGISTER

PAUL DALE, Owner
 Snug Harbor Seafoods
 Kenai, Alaska

POSITION STATEMENT: Testified opposition to HB 251.

FRED STURMAN, Fisherman
 Kenai, Alaska

POSITION STATEMENT: Testified in opposition to HB 251

ARNI THOMPSON, Consultant
 Alaska Salmon Alliance (ASA)
 Anchorage, Alaska

POSITION STATEMENT: Testified on HB 251.

RHONDA HUBBARD, Owner
 Kruzof Fisheries
 Seward, Alaska

POSITION STATEMENT: Testified on HB 251.

STEVEN MATHEW, Fisherman
 Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to HB 251.

KEVIN BROOKS, Deputy Commissioner
 Alaska Department of Fish & Game (ADF&G)
 Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 251.

KEN ALPER, Director
 Tax Division
 Department of Revenue (DOR)

POSITION STATEMENT: Responded to questions during the hearing on HB 251.

TOM SUTTON, Manager

Fish Tax Section
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 251.

VINCE OSHEA, Vice President
Pacific Seafood Processors Association
Juneau, Alaska

POSITION STATEMENT: Testified with concern on HB 251, and responded to questions.

ACTION NARRATIVE

[10:06:15 AM](#)

CHAIR LOUISE STUTES called the House Special Committee on Fisheries meeting to order at 10:06 a.m. Representatives Stutes, Kreiss-Tomkins, and Ortiz were present at the call to order. Representatives Foster, Herron, Johnson, and Millett arrived as the meeting was in progress.

HB 251-ELECTRONIC TAX RETURNS & FISHERIES TAXES

[10:06:56 AM](#)

CHAIR STUTES announced that the only order of business would be HOUSE BILL NO. 251, "An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to fisheries business tax and fishery resource landing tax; relating to refunds to local governments; and providing for an effective date."

CHAIR STUTES opened public testimony.

[10:08:06 AM](#)

PAUL DALE, Owner, Snug Harbor Seafoods, stated opposition to HB 251, but stated support for taxes as a necessary part of funding a civilized life. Taxes are an obligation to be met, he opined, and said the fishing industry has, and will continue, to pay its way as in Alaska; however, in this case it appears to be excessive. He referred to the committee packet and a document headed, "Pacific Seafood Processors Association, Ocean Beauty Seafoods, Icicle Seafoods Position on HB 251" ("4-4-4-4 proposal"), undated, which presents an untitled chart with four

column headings, and four row headings. The chart is to indicate the existing taxes, the proposed taxes under HB 251, the taxes proposed by the collaborating seafood processors, and the resulting percentage of revenue stream to the government. He said the 4-4-4-4 proposal appears to even out the various business taxes between shore based and floating processors. He said he concurs with the proposal, save one point, and opined that the two percent differential between the shore based and floating processors should be retained. The long standing view that Alaskan communities accrue greater benefits from shore based facilities continues to hold true and these facilities should be encouraged. He offered support for testimony provided at previous hearings that proposed alternative cost saving measures, which included: streamlining information requirements, reporting, and data sharing between ADF&G and DOR; the need to decrease the levels of foregone harvest; and closing various loopholes that could increase fishery values to the state.

[10:11:59 AM](#)

The committee took an at-ease from 10:11 a.m. to 10:12 a.m.

[10:12:56 AM](#)

FRED STURMAN, Fisherman, stated opposition to HB 251, and cited excessive state salaries, which he stressed should be reduced by 30 percent. He opined on the ethics and fairness of requiring industry cuts and taxes, without first implementing a reduction in the number of state positions or salaries, and provided examples to illustrate his stance, including recent actions taken by the oil industry.

[10:16:56 AM](#)

ARNI THOMPSON, Consultant, Alaska Salmon Alliance (ASA), commented on HB 251, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

ASA is pleased with your open and comprehensive approach to new revenues being proposed for not only fisheries but other resource taxes. ASA is also pleased that you have temporarily put HB 251 on hold until you are comfortable that the fishing industry is not being singled out from other industries.

ASA agrees with the comments of other fisheries representatives that the tax plan is oversimplified rushed and ignores other resource taxes in the state. The fisheries tax schedule is one of the more complex in Alaska tax code.

Increasing the business tax rate 1 percent across the board as proposed can result in a minimum increase of 20 percent and a maximum increase of 33 percent and does not make distinctions. Although a one percent increase could work for some sectors, it would stress salmon plants which are glutted with oversupply and having trouble profiting at the current 4.5 percent rate.

Another factor negatively affecting the seafood market is the U.S. dollar's strength over key export markets like Europe, China, and Japan has hurt seafood prices, notably the Bristol Bay sockeye harvest for which fishermen received half the average price per pound.

Taxes on industry, while politically easier to achieve, risk shrinking our economy and the revenue pie, making things worse in the long run. Continuing to incentivize growth in the private sector will strengthen the foundation of Alaska's economy and grow the revenue pie for the state over the long run. A strong and growing private sector should be a priority. When the private sector is healthy and growing, the State of Alaska will prosper.

MR. THOMPSON directed attention to the committee packet and the United Fishermen of Alaska (UFA) handout titled, "Alaska Seafood Industry Taxes and Fees," to highlight that the 2014 seafood taxes and fees equaled \$121 million, which exceeds the \$96.8 million the state expends for fisheries research and management. The seafood industry operating in federal waters also pay state landing fees and taxes, bringing the annual payments to about \$250 million. Referencing previous comments offered by Paul Dale regarding foregone harvest, he agreed, that this is an area of concern which, if addressed, could provide significant increases in state revenue. He referred to comments in the 4-4-4-4 proposal handout, to underscore the concern expressed, which read:

Further, those [depressed] sectors are a major source of Alaska jobs, so additional taxes assessed now will only serve to reduce jobs ...

MR. THOMPSON recalled the overview provided to the committee at its 2/4/16 meeting, and referred to the report presented, titled "Seafood Industry's Impact in Southcentral Alaska," prepared by ASA and the McDowell Group, Inc., dated June 2015, to highlight the section regarding the seafood industry support sector, which details 84 public agencies that are involved in the fishing industry, representing a significant part of a \$1.2 billion dollar industry in southcentral alone. About 40 percent of that total is revenue that is picked up by the support sector of the fishing industry, he stressed.

[10:21:56 AM](#)

RHONDA HUBBARD, Owner, Kruzof Fisheries, drew attention to the committee packet, and ten, non-sequentially numbered pages of testimony, with a cover letter bearing the FISHERIES LLC KRUFZOF letterhead, dated 3/5/16, Attn: Fisheries Committee Chair and Members, Re: HB 251 - Sectional Analysis - Item #6. She said the creation of an integrated reporting system would serve the industry participants, as well as represent a cost saving measure to the state by eliminating duplication of data management efforts between agencies. Through the development of the various fisheries and individual fishing quotas (IFQs), the industries' reporting requirements have evolved into a nearly unmanageable situation, at times necessitating an employee to be dedicated to oversee the effort. The first mate has become the paper mate, she quipped. The foregone harvest is also an area that needs to be scrutinized to increase revenues, she added. Finishing, she cautioned that in considering further taxation of the fishing industry, it be approached with an eye for diminishing returns.

[10:25:13 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked for elaboration on the duplication of effort referred to, and solicited her comments for a possible amendment.

MS. HUBBARD responded that the electronic reporting system [bill page 3, lines 5-9] should segue to include all departments related to the management of the fishing industry, which include national agencies such as the National Marine Fisheries Service (NMFS). Thus, an amendment requiring interagency interfacing,

particularly around e-landing reports, would be helpful, she suggested.

REPRESENTATIVE KREISS-TOMKINS ascertained that a single data portal would be helpful, versus being required to re-enter information for the various agencies.

MS. HUBBARD added that such action would place the burden of proof on the fishing industry, and the departments could issue and collect revenue based on the data entered by the fishermen, consolidating a multiplicity of agency information and alleviating duplication of effort. She predicted an integrated system would be expedient and improve accuracy.

REPRESENTATIVE KREISS-TOMKINS referred to the bill, Sec 2, page 1, beginning on line 10, which read:

1* **Sec. 2.** AS 43.05 is amended by adding a new section to read:

Sec. 43.05.222. Electronic submission of return or report. (a) A taxpayer required to submit a return or report for a tax levied under AS 43 or any other tax administered by the department shall submit the return or report electronically in a format prescribed by the department. Unless the taxpayer has received an exemption under (b) of this section or can show reasonable cause, a return or report not submitted electronically is subject to a civil penalty under AS 43.05.220.

(b) A taxpayer may request an exemption from the requirement that a return or report be submitted electronically. The taxpayer or taxpayer's representative shall contact the department and request the exemption before the return or report is due and shall submit evidence that the taxpayer does not have the capability to submit the return or report electronically. An exemption granted under this subsection is valid for two years after the first tax filing due date after the exemption is granted; after the two year period, the taxpayer may apply for another exemption.

REPRESENTATIVE KREISS-TOMKINS asked whether this proposed section would satisfy the witness' concerns and if there are any amendments needed to the proposed language to solve the problem.

MS. HUBBARD said a change to Sec. 2 would not be necessary; however, it appears to lack specific language requiring departments to interface/share data sets.

[10:30:58 AM](#)

REPRESENTATIVE ORTIZ returned to the question regarding foregone harvest, and asked whether specific data exists that indicates lost harvest opportunities.

MS. HUBBARD said her information is anecdotal, as a groundfish harvester, and deferred to Paul Dale [previous witness] as a fisherman who is directly involved.

[10:33:13 AM](#)

REPRESENTATIVE HERRON asked whether she has received response from the departments regarding the duplication of reporting requirements.

MS. HUBBARD answered that DOR and ADF&G interact; however, having the DOR fish tax division located within ADF&G would be helpful, she advised.

[10:34:53 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked about the tax levied on developing fisheries and whether it plays an important role.

MS. HUBBARD said paying a single rate would be helpful, as the developing fish tax tends to be an insignificant amount to report, but labor intensive to segregate for reporting purposes. She suggested that it may also be cost effective to the agencies to eliminate the breakout.

[10:36:54 AM](#)

STEVEN MATHEW, Fisherman, stated opposition to HB 251, and questioned how the increased revenues will be used by the state. He inquired about the minimum value placed on each species of fish, conjectured on the fishermen receiving any benefit from increased taxes, and questioned whether infrastructure for bolstering the marketing of Alaskan fish products will be funded.

[10:40:07 AM](#)

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

[10:40:27 AM](#)

KEVIN BROOKS, Deputy Commissioner, Alaska Department of Fish & Game (ADF&G), said the perceived disconnect between departments is a new issue and the agencies will certainly address a more seamless approach, to improve interactions with the fishermen.

[10:41:03 AM](#)

KEN ALPER, Director, Tax Division, agreed and said that duplication of effort should not be part of the process. He pledged to resolve the situation, however, it may not come within the confines of HB 251.

[10:42:06 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked for a description of the administrative process that a fisherman is required to fulfill by the departments.

MR. BROOKS said he lacks firsthand knowledge but will observe the process this summer.

MR. ALPER deferred.

[10:43:33 AM](#)

TOM SUTTON, Manager, Fish Tax Section, Department of Revenue (DOR), explained how tax filing takes place for each fishing sector: a catcher processor in Alaskan waters, from shore out to 3 miles, must file a fish business return; catcher processors in federal waters, from 3 miles out to 200 miles, must file a fish landing return. The rates are basically the same for species for developing or established for both tax returns. He said if an incongruence is apparent, corroborating information can be accessed from ADF&G data.

[10:45:12 AM](#)

REPRESENTATIVE KREISS-TOMKINS clarified that the ADF&G fish tickets are a cross reference to the data set held by DOR.

MR. SUTTON confirmed the members understanding, and reiterated that the information received by DOR, from fisherman, may require corroboration from ADF&G data for accuracy.

REPRESENTATIVE KREISS-TOMKINS asked whether there is redundancy in the system.

MR. SUTTON offered to provide further information.

[10:47:08 AM](#)

REPRESENTATIVE ORTIZ noted that HB 251 is one aspect of a compliment of bills being considered for generating general fund enhancement. He asked whether foregone harvest could be an answer to the situation.

MR. BROOKS acknowledged that foregone harvest does occur. However, in some situations it is necessary in order to avoid taking other returning species that require protection, such as sockeye and Chinook harvests. A sustained yield is necessary and important.

REPRESENTATIVE ORTIZ asked for an estimate or quantification of what the revenue might be from the foregone harvest.

MR. BROOKS said foregone harvest cannot easily be estimated, and must be done via each watershed or system.

[10:50:08 AM](#)

REPRESENTATIVE JOHNSON noted difficulty, on the part of the department, to extract accurate, in-season harvest management. Accuracy issues cannot necessarily be solved, he agreed, and over/under escapements will continue. A foregone harvest primarily represents more fish escaping into a system, and providing data for the department to use in managing the returns the following year, he opined.

[10:51:13 AM](#)

REPRESENTATIVE JOHNSON suggested a lack of acceptable response from the agencies, regarding the fisherman's process of paying taxes.

[A brief conversation ensued regarding the process.]

[10:53:12 AM](#)

REPRESENTATIVE HERRON asked about the viability of the 4-4-4-4 proposal as offered by PSPA, Ocean Beauty Seafoods, and Icicle Seafoods.

MR. ALPER said that the administration supports HB 251 without amendment. The proposal calls for some taxes to be raised and some lowered, in an effort to create equalization of taxes throughout the fisheries. He said tax rates are a policy established by the legislature, which could be revisited, and recalled previous discussions on the rationale for the current rates.

REPRESENTATIVE HERRON referred to the 4-4-4-4 proposal, paragraph 6, and the reference to loopholes that need to be closed, and asked for comment.

MR. ALPER responded that money appears to be left on the table related to the undervalued fisheries, such as arrowtooth flounder. A value is established on a species based on a data set, which may or may not represent an appropriate assessment. The estimation that re-evaluating and appropriately assessing these undervalued fisheries would net a revenue gain of \$4 million seems lofty, he opined, and suggested the industry provide details.

[10:57:16 AM](#)

REPRESENTATIVE KREISS-TOMKINS clarified that it is the landing tax being referred to and the possible incongruences are in the rates assigned to species at the landing point.

MR. ALPER responded, "Yes."

REPRESENTATIVE KREISS-TOMKINS asked which species it applies to and how much of a discrepancy is being represented.

MR. ALPER deferred.

[10:58:39 AM](#)

MR. BROOKS offered that an evaluation update may provide value increases and perhaps capture \$2 million in revenue.

REPRESENTATIVE KREISS-TOMKINS inquired about where the undervalued species are caught.

MR. BROOKS stated his understanding that the species are caught offshore by large vessels.

REPRESENTATIVE KREISS-TOMKINS requested further information.

11:00:29 AM

MR. ALPER said that the loopholes refer to a landing tax. He opined that larger issues exist regarding the lack of taxation of the industries by-catch, which would represent a significant source of revenue.

11:02:03 AM

REPRESENTATIVE HERRON returned to the 4-4-4-4 proposal to inquire about the previously mentioned loopholes.

11:02:16 AM

VINCE OSHEA, Vice President, Pacific Seafood Processors Association, said what currently occurs is that ADF&G calculates a statewide average fish price. The price is based on reports received from the processors. Some species being delivered to Ocean Beauty may not be an edible product, on arrival, and these are turned into fish meal. Thus, what the fish ticket reflects, in the case of yellow fin sole, is \$0.2 per pound. An offshore catcher processor, targeting yellow fin sole, may retain a value of \$0.16 - \$0.18 per pound. The difference of \$0.14 per pound on 298 million pounds is significant. The Atka mackerel catch is a similar fishery situation and represents \$0.10 per pound on-shore, but the sea processor pays \$0.32 per pound. The mackerel harvest is about 69 million tons. He reported that ADF&G has an analyst working on addressing the eight or so "problem" species. The estimated potential value is approximately \$1.8 - \$2.4 million.

REPRESENTATIVE KREISS-TOMKINS clarified that the foregone tax value is the difference in the state assessed on-shore value versus the at-sea price.

MR. OSHEA stated, "Yes," and pointed out that it is not an issue of underreporting, but the DOR system operates on the statewide average price list, as derived from surveying the processors fish tickets. Because the shore processors are not handling much Atka mackerel, or yellow fin sole, these species carry a low value. He suggested that it's a technical gap in the

system, and prior to raising taxes, the 4-4-4-4 proposal suggests creating a level playing field.

REPRESENTATIVE KREISS-TOMKINS noted the significant difference in the \$2.4 million, as testified to, and the \$4 million submitted in the 4-4-4-4 proposal.

MR. OSHEA explained that the base price set by a company varies due to the actual market price receive. Thus, on landing their catch, the fishermen enter into a trust situation with the buyer. Payment adjustments are often made, which in turn effect the fisheries business tax. The proposal suggests that the means by which this is handled could result in an additional \$2 million in state revenue.

[11:09:10 AM](#)

CHAIR STUTES interjected that statute is apparently not being enforced to that end, and it is incumbent on DOR to collect the tax.

[11:09:23 AM](#)

REPRESENTATIVE ORTIZ suggested that the argument justifying the differential between the land based and vessel based processing may be well founded, and asked what the argument is for making them level.

MR. OSHEA noted that a bias may have existed when the taxes were established, and opined that equalizing the tax is a timely consideration, due to the need for flexibility. Land based processing facilities pay property taxes, as well as represent entities that contribute to the vitality of a community, as opposed to the "floaters." However, the movable processors used today are especially important in remote areas where it doesn't make sense to build a shore based facility that may sit vulnerably idle for 11 months of the year. He provided examples of specific fishery scenarios located in Bristol Bay and Chignik, to emphasize the importance of floaters. Times have changed and it's important to provide the capacity and availability to fisherman through the use of floaters, he opined. Additionally, dropping the floating tax by the proposed one percent [4-4-4-4 proposal], only results in a revenue collection difference of \$500,000.

[11:13:24 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked for comments from DOR to address the previously mentioned retro tax issue.

MR. ALPER acknowledged that DOR is obligated to enforce the statutes and collect any retro, end of season, adjustment taxes; however, the action depends on the ability for the agency to conduct timely audits. The department has added a new auditor to staff. He stated agreement with the 4-4-4-4 proposal regarding the need to ensure that, prior to raising taxes, all appropriate tax collections have been made. He then deferred.

[11:15:06 AM](#)

MR. SUTTON said that the mission of DOR is to collect every tax dollar that is due to the state. He explained the nuances that exist and the complexities that revolve around the way fishermen receive payment, often depending on the organizations through which they sell their catch. The tax section may require some reorganization to create a clean playing field. Lack of resources in the division have resulted in minimizing audits and the paper chase. However, with the advent of revenue on-line staff expertise can be better applied.

[11:17:55 AM](#)

CHAIR STUTES noted that regardless of how the fishermen sell their fish, if they are paid retroactively or receive post season bonuses, the appropriate tax should be paid.

MR. SUTTON clarified that a fisherman investing in an LLC versus a fisherman selling to a processor represent two different approaches. One is an investment for the fisherman the other is a direct sale, based on an honor agreement.

CHAIR STUTES maintained that when the fish are delivered a minimum amount will be paid, regardless, and a retro payment may be forthcoming. Any adjustment paid is on the fish, not on an investment, and that should be consistent, and accounted for.

MR. ALPER agreed, and said it up to DOR to audit, determine the tax, and assess appropriately.

[11:21:47 AM](#)

REPRESENTATIVE HERRON asked for a department rebuttal to the 4-4-4-4 proposal, and whether it is supportable.

MR. ALPER agreed that floating processors are a valuable asset, and taxing them less, may be appropriate if the overall economic value is considered enough of a benefit. The argument is novel, reasonable, and rational, he said. Available, mobile, fish processing plants provide a necessary service. Mr. Alper said the 4-4-4-4 proposal represents \$15 million which is in the range of the governor's goal. He suggested that it may be possible to establish a form of property tax on floating processors, so as to not actively disadvantage shore based facilities.

[11:25:00 AM](#)

REPRESENTATIVE KREISS-TOMKINS referred the earlier discussion regarding the valuation of species and requested an in-depth analysis and comparative chart for fish values across the state, by sector, which highlights the equitability of tax contributions.

MR. ALPER said it may represent a robust analysis, with ADF&G providing the management figures, and agreed to provide the information.

[11:27:54 AM](#)

REPRESENTATIVE KREISS-TOMKINS offered Amendment 1, which read as follows:

Page 2, line 24:
Delete "one"
Insert "**four** [ONE]"

Page 3, line 1:
Delete "one"
Insert "**four** [ONE]"

Page 4, line 2:
Delete "one"
Insert "**four** [ONE]"

REPRESENTATIVE KREISS-TOMKINS, without objection, said the amendment responds to testimony received regarding excessive reporting, with minimal benefits, on developing species. He then withdrew Amendment 1, without objection.

[11:28:59 AM](#)

CHAIR STUTES announced HB 251 as held.

11:29:21 AM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 11:29 a.m.