

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

January 30, 2018
10:06 a.m.

MEMBERS PRESENT

Representative Louise Stutes, Chair
Representative Jonathan Kreiss-Tomkins
Representative Geran Tarr
Representative Mike Chenault
Representative David Eastman

MEMBERS ABSENT

Representative Mark Neuman
Representative Zach Fansler

COMMITTEE CALENDAR

HOUSE BILL NO. 188

"An Act relating to commercial fishing entry permits; establishing regional fisheries trusts and fisheries trust regions; relating to commercial fishing entry permits held and leased by a regional fisheries trust; relating to the duties of the Alaska Commercial Fisheries Entry Commission and the Department of Commerce, Community, and Economic Development; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 188

SHORT TITLE: COMM. FISH. ENTRY PERMITS; LOANS; TRUSTS

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

03/20/17	(H)	READ THE FIRST TIME - REFERRALS
03/20/17	(H)	FSH, L&C
04/13/17	(H)	FSH AT 10:00 AM GRUENBERG 120
04/13/17	(H)	-- MEETING CANCELED --
04/20/17	(H)	FSH AT 10:00 AM GRUENBERG 120
04/20/17	(H)	-- MEETING CANCELED --
04/25/17	(H)	FSH AT 10:00 AM GRUENBERG 120
04/25/17	(H)	Heard & Held
04/25/17	(H)	MINUTE(FSH)
01/25/18	(H)	FSH AT 11:00 AM GRUENBERG 120

01/25/18 (H) Heard & Held
01/25/18 (H) MINUTE (FSH)
01/30/18 (H) FSH AT 10:00 AM GRUENBERG 120

WITNESS REGISTER

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

POSITION STATEMENT: Presented the Summary of Changes, Version U - Version M HB 188 - Regional Fisheries Trusts and answered questions during the hearing.

BRUCE TWOMLEY, Commissioner, Chair
Commercial Fisheries Entry Commission
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 188.

ACTION NARRATIVE

[10:06:34 AM](#)

CHAIR LOUISE STUTES called the House Special Committee on Fisheries meeting to order at 10:07 a.m. Representatives Stutes, Kreiss-Tomkins, Tarr, and Eastman were present at the call to order. Representative Chenault arrived as the meeting was in progress.

HB 188-COMM. FISH. ENTRY PERMITS; LOANS; TRUSTS

[10:07:40 AM](#)

CHAIR STUTES announced that the only order of business would be HOUSE BILL NO. 188, "An Act relating to commercial fishing entry permits; establishing regional fisheries trusts and fisheries trust regions; relating to commercial fishing entry permits held and leased by a regional fisheries trust; relating to the duties of the Alaska Commercial Fisheries Entry Commission and the Department of Commerce, Community, and Economic Development; and providing for an effective date."

[10:08:19 AM](#)

REID MAGDANZ, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-

Tomkins, prime sponsor of HB 188, stated that he would be presenting an analysis of the changes incorporated into the proposed committee substitute (CS) for HB 188, Version M [labeled 30-LS0389\M, Bullard, 1/22/18]. He advised the committee that his presentation would follow the document titled "Summary of Changes, ver U – ver M | HB 188 – Regional Fisheries Trust," which should be in members' packets. As previously discussed at the committee meeting on January 25, 2018, one of the major changes in Version M was to replace the term "lease" with "temporary transfer" and replace the term "lessee" with "temporary transferee." These changes reflect the different structure of the proposed fisheries trust permit system, which uses temporary transfers of permits as opposed to permit leases. He said that these changes have been made throughout Version M of HB 188. He pointed out that the Summary of Changes document does not identify instances where these specific changes have no substantive effect on policy and that he would not cover those instances; however, he emphasized that he would review substantive policy changes that have been made. He also pointed out that this section-by-section analysis reflects the changes incorporated into Version M, as shown in the Summary of Changes document, reflecting changes made to the bill as it was originally introduced to the work draft currently before the committee.

[10:11:54 AM](#)

MR. MAGDANZ referred to page 2, line 25, which adds Section 2, [Version M] [Alaska Statutes (AS) 06.26.040(b)], to allow a regional fisheries trust to be called a "regional fisheries trust" since state law restricts what can be referred to as a trust. This section ensures that the regional fishery trusts do not violate that other state law. He turned to page 3, [lines 29-31 and page 4, lines 1- 9], to Section 6, AS 16.04.480(h), [Version M]. He said this language was added because under the new draft nonresidents would be allowed to access permits from a fisheries trust. He then referred to Sections 12 and 14 of Version M, [on page 5, lines 27-31, page 6, lines 19-31, and page 7, lines 1-27], and said these sections were added to make conforming changes to existing law that Legislative Legal and Research Services attorneys said are necessary to ensure that a temporary transferee would be treated the same as any other permit holder.

[10:13:03 AM](#)

MR. MAGDANZ directed attention to Section 16, [page 7, line 28-31 and page 8, lines 1-3, AS 16.10.540(a), Version M], which has been amended. He said this section relates to groups of fishermen coming together to levy fees that cover hatchery debt. He stated that the new version clarifies that a temporary transferee's temporary status with a fishery would prohibit them from participating in voting on whether to incur long-term debt on behalf of other fishermen in the fishery. He directed attention to Section 17 [Version, M, on page 8, lines 4-31, page 9 lines 1-31, and page 10, lines 1-3]. He said Section 17 adds two new paragraphs, (22) and (25), which are found on page 9, [lines 23 and 31, respectively]. He said these paragraphs would add duties to the Commercial Fisheries Entry Commission (CFEC) to reflect the different responsibility it has for the temporary transfer of a permit as opposed to permits that are leased. He stated that the first duty, under paragraph (22), would be to approve temporary transfers proposed by a fisheries trust. Paragraph (25) specifies how the CFEC would handle permits that revert to it if a fisheries trust dissolves because of financial insolvency, he said. Mr. Magdanz directed the committee to the second page of the Summary of Changes document, where it states that the conforming amendments in AS 16.43.140(c) of Version U were removed as they were deemed unnecessary by the Legislative Legal and Research Services attorney. Thus, Version M does not include any amendments to AS 16.43.140(c).

[10:15:18 AM](#)

MR. MAGDANZ turned to Section 22, on page 10, [lines 24-31 and page 11, line 1, AS 16.43.150(g), Version M]. He said this section has been amended to reflect the fact that leasing of permits would still be prohibited under Version M. In addition, Section 22 adds new language making it explicit that temporary transfers are allowed. He said that under current law, the allowance for temporary transfers or emergency transfers is implicit. He stated that the Legislative Legal and Research Services attorneys added the language on page 10, lines 29-30, to make it clearer that temporary transfers are not transfers with a retained right of repossession, which is otherwise prohibited. Referring to Section 28, on page 12, [lines 22-31, Version M], he said this change pertains to the existing temporary transfers authorized by the Limited Entry Act (LEA). He explained that these are commonly known as emergency transfers or emergency medical transfers. The changes to Section 28 [AS 16.43.180(a)] would allow an individual fishing a permit acquired from a regional fisheries trust to emergency transfer the permit to another person for reasons specified in

law if the individual is unable to participate in the fishery. For example, if someone has a temporary transfer permit acquired from a fisheries trust for a period of three years and broke his/her leg after fishing the permit for one year, then he/she would be able to emergency transfer the permit to another individual subject to approval and regulations under CFEC.

[10:17:17 AM](#)

CHAIR STUTES asked whether the person with the temporary transfer would be able to choose who receives his/her permit through an emergency transfer.

MR. MAGDANZ answered that language in Version M would allow the injured person to choose who would receive the permit under an emergency transfer, subject to approval and regulations under the CFEC. In response to a further question by Chair Stutes, he replied that the original permit holder in this case would be the fisheries trust.

CHAIR STUTES asked for confirmation that the fisheries trust would have input on the selection of the transferee.

MR. MAGDANZ responded that Chair Stutes was correct.

[10:18:39 AM](#)

MR. MAGDANZ directed attention to Section 29, on page 13, [lines 1-31], Version M, stating this new section describes the procedures a regional fisheries trust must follow to temporarily transfer a permit. He emphasized that Section 29 is new law and one of the more substantive sections of the bill, that most of the previous sections of the proposed committee substitute for HB 188 are largely conforming changes. The first thing Section 29 [proposed AS 16.43.190(a), page 13, lines 3-7], provides is that an entry permit held by a fisheries trust can only be fished by a temporary transferee [qualified under proposed AS 16.44.080 and approved by the commission under (c) of this section]. This basically says the fisheries trust must follow this defined procedure for this permit to be legally fished, he said.

MR. MAGDANZ, referring to [Section 29, AS 16.43.190(b), on page 13, lines 8-17, Version M], said that this subsection outlines the procedure a fisheries trust must follow when issuing a temporary transfer permit. First, they would have to provide the CFEC with information identifying the permit to be

transferred as well as identifying the person who will receive the permit. Additionally, the CFEC would have to be notified of the terms of the temporary transfer, including the length of the transfer period and compensation received by the trust. Finally, the CFEC is also empowered to require the fisheries trust to provide any other information the CFEC might require, he said. Referring to [Section 29, AS 16.43.190(c), on page 13, lines 18-23, Version M], he stated that once the fisheries trust has provided the CFEC with that information, the commission reviews the temporary transfer to ensure that the proposed temporary transferee is eligible. The CFEC could deny the transfer if the transferee is not eligible under the law.

MR. MAGDANZ said that Section 29, [AS 16.43.190(d), on page 13, lines 24-31, [Version M] pertains to reasons the CFEC could revoke a temporary transfer of an entry permit. He provided two examples where the terms of a temporary transfer might not be met. First, under paragraph (1), if the transferee has violated fishing laws, such as fishing the permit beyond its set period. Second, the CFEC could revoke a temporary transfer if the transferee has failed to compensate the fisheries trust with the required fees or the transferee has tried to fish the permit for a period longer than allowable under the permit. He said that the permit would be revoked if new information demonstrating that the transferee is not eligible to receive the permit becomes available.

[10:22:05 AM](#)

CHAIR STUTES asked whether an individual transferring his/her permit because of an injury would lose all financial attachment to the permit.

MR. MAGDANZ asked for clarification that Chair Stutes was referring to a situation where an individual who received a permit from a fisheries trust becomes injured and subsequently transfers the permit to another individual.

CHAIR STUTES answered yes.

MR. MAGDANZ responded that the bill does not specify how the financial obligations would transfer in the type of situation Chair Stutes just described. He offered his belief that the CFEC would have some authority to address those types of circumstances in regulation. He said the likely outcome would be that the original transferee would remain financially responsible to the fisheries trust. The emergency transferee

would then pay the temporary transferee, who would pay the fisheries trust, just as it is currently done

CHAIR STUTES asked for confirmation that the bill does not include provisions for this scenario.

MR. MAGDANZ answered that it is not specifically defined in the bill; therefore, it is possible that the financial obligations would pass on to the emergency transferee. As the bill is currently written, such regulatory authority would fall under the jurisdiction of the CFEC, he stated.

CHAIR STUTES asked whether there are limits on the number of emergency transfers that can occur for a given permit. She provided an example where an individual who receives a permit through an emergency transfer is unable to participate in the fishery because the temporary transferee falls off the boat and dies. She asked whether the permit could be transferred again.

MR. MAGDANZ responded that he was unsure if it is currently possible for a permit to be transferred multiple times as an emergency transfer. He would defer that question to the CFEC commissioners. Referring to the language in Section 28 of Version M, he read, "The commission shall adopt regulations providing for the temporary emergency transfer of entry permits, including temporary emergency transfer of temporarily transferred permits under AS 16.43.190". He said he would interpret this to be at the discretion of the CFEC.

[10:24:48 AM](#)

REPRESENTATIVE EASTMAN asked at what point an emergency transfer period would end. He provided an example of recovering from a broken leg and asked if the permit would then come back to the previously injured individual.

MR. MAGDANZ answered that he could only speak to his understanding of emergency transfers under current law. His understanding is that regulations adopted by the CFEC provide that emergency transfers are valid for one year. He suggested that the permit holder may be able to make an emergency transfer for two years in a row if the disabling condition continues to exist. He said CFEC regulations also provide for an injured individual to revoke an emergency transfer at any time, which would return the permit to them for their own use.

[10:26:11 AM](#)

MR. MAGDANZ turned to Section 37, on page 18 [lines 1-21, Version M] noting that Sections 30-36 are the same as those in Version U except for replacing the term "lease" with "temporary transfer." He directed attention to page 18, [lines 7-12, to AS 16.43.960(k)], which contains the next substantive change to existing law. This subsection provides that if a fisheries trust is dissolved due to financial insolvency, permits held by the trust would revert to and be reissued by the CFEC. He directed members to briefly revert to Section 17, [Version M], which provides further direction for the CFEC, specifically, that the CFEC shall reissue the permits to ensure the state receives fair market value for them. He pointed out that this is language borrowed from existing statute.

[10:27:13 AM](#)

REPRESENTATIVE EASTMAN asked whether an insolvent fisheries trust would receive fair market value for the permits it relinquishes to the CFEC.

MR. MAGDANZ answered that the proceeds for the permits would go to the CFEC; however, the funds received would be state monies subject to legislative appropriation.

MR. MAGDANZ then directed attention to Section 37, [AS 16.43.960(k)(2) Version M, on page 18, lines 10-12, Version M], and explained that paragraph (2) states that the CFEC cannot revoke a permit from the fisheries trust solely due to the actions of a temporary transferee. In practice, this means if the fisheries trust temporarily transferred a permit and a temporary transferee violates fishing laws, the CFEC can revoke the temporary transfer; however, it cannot also revoke the permit from the fisheries trust itself.

[10:28:22 AM](#)

REPRESENTATIVE EASTMAN said he understood the reason for that provision. He then asked about a situation where a temporary transferee is habitually violating fishing laws possibly with the knowledge of a fisheries trust. He asked what might be done under those circumstances, given the fact that the proposed legislation would not allow CFEC to revoke the permit from the fisheries trust.

MR. MAGDANZ answered that Version M of HB 188 would give the CFEC the authority to continue to revoke a permit from anyone

violating fishing laws. He directed attention to Section 36 of Version M, in existing law, which is why he had not mentioned it. He read, in part, paraphrasing, that the CFEC has the authority to revoke, suspend, or transfer all entry permits held by a fisheries trust if the trust knowingly provides or assists in providing false information to the CFEC to obtain a benefit. He said this is the case in which a fisheries trust could have its permit unilaterally revoked. He was not sure if the bill speaks specifically to the situation posed by Representative Eastman, where a fisheries trust might somehow be colluding with a temporary transferee to routinely violate fishing laws; however, that scenario would be unlikely. He added that there may be additional provisions of law that might apply. He offered to look further into that possibility.

[10:30:15 AM](#)

MR. MAGDANZ turned to Section 37, [AS 16.43.960(1), [Version M], on page 18, [lines 13-21]. He explained that this paragraph relates to cases in which a temporary transferee's fishing privileges are suspended due to fishing law violations and to a regional fisheries trust's right to revoke a permit. The current bill, under [AS 16.43.960(1)(1)] provides that if fishing privileges are suspended for a period longer than the period of the temporary transfer permit, the fisheries trust can unilaterally request the CFEC to revoke the temporary transfer, return the permit to the fisheries trust, and the CFEC can make the permit available to someone else. Paragraph (2), [AS 16.43.960(1)(2)] applies to instances in which fishing privileges are suspended for a period shorter than the temporary transfer period. He related a scenario in which a temporary transfer is for a three-year period, but the temporary transferee is suspended from fishing for one year due to fishing violations; a fisheries trust cannot unilaterally revoke the temporary permit transfer. He explained that the regional fisheries trust can only revoke the temporary transfer of the permit if the temporary transferee requests it. To illustrate this provision, he related a scenario wherein a temporary transferee might acknowledge that due to fishing violations, the permit to fish could not be used. The transferee, upon further realizing that would preclude him/her from earning money to pay for next year's permit, could request the CFEC take back the permit and give it to someone else to use. The fisheries trust could do that.

[10:31:51 AM](#)

MR. MAGDANZ turned to Section 39, [AS 16.44.010] on page 18, 6s 27-31, page 19, lines 1-31, and page 20, lines 1-3, Version M], which adds Chapter 44 [Regional Fisheries Trusts] to the Title [16] statutes. He said Chapter 44 pertains to the operations and structure of fisheries trusts. He offered that the next two pages of the Summary of Changes document describe various aspects of changes to Section 39.

MR. MAGDANZ directed attention to Section 39, [AS 16.44.010(a), on page 18, lines 28-31, Version M] noting that the first change was also present in the work draft the committee reviewed last spring. He said that changes in this subsection would provide [the Department of Commerce, Community & Economic Development (DCCED)] limited authorization to establish fisheries trusts in no more than three regions in Alaska, unless others are approved through further legislative action, he said. In addition, subsection (a) would require municipalities applying to the DCCED for a trust to not only provide evidence demonstrating that two-thirds of the municipalities in their region are in support of establishing a trust, but also provide draft bylaws and business plans for the trust prior to DCCED's review.

[10:33:24 AM](#)

MR. MAGDANZ turned to Section 39, to proposed AS 16.44.010(d), on page 19, [lines 19-29], Version M. He explained that this subsection pertains to events following the dissolution of a fisheries trust. Permits held by the trusts would revert to the CFEC for reissue and all other rights and properties of the trusts would pass to the state.

MR. MAGDANZ referred to proposed AS 16.44.020(c) and AS 16.44.020(d), on page 20, [lines 14-30, Version M]. He explained these subsections have been rewritten, that the substantive change makes it clear that an unincorporated community can be seated on a fisheries trust board from the inception of the fisheries trust if the fisheries trust application to the DCCED requests that the community be included. He remarked that the prior version of the bill required that the initial board could be seated only with representatives from municipalities and that board could then choose to include unincorporated communities.

[10:35:07 AM](#)

REPRESENTATIVE EASTMAN asked, regardless of whether they are unincorporated communities or municipalities, if the bill has a

mechanism for longtime participants in a trust, who are perhaps on a border or boundary between two different trusts, to leave one regional fisheries trust and join another one.

MR. MAGDANZ answered that Version M does not consider this option. He said that the intent is when fisheries trust regions are drawn they are essentially set; however, he drew attention to one provision. He referred to page 19, lines 17-18, [proposed AS 16.44.010(c) Version M], which allows the DCCED to modify or change the boundaries of regions for "good reason." He acknowledged that some people have suggested this language needs further clarification, which might be appropriate given Representative Eastman's question. He highlighted the sponsor's intent in instances where the CFEC might make changes to its administrative area boundaries, which are found in regulation, not statute, that the department would be able to adjust or modify the boundaries. He clarified that in drafting this language, the sponsor did not anticipate that communities might want to "jump" from one fisheries trust region to another.

[10:37:07 AM](#)

MR. MAGDANZ referred to [Section 39], to proposed AS 16.44.020 (d) on page 20, lines 25-30, [Version M]. This language is new language based on feedback primarily from fishermen and commercial fishing groups, he stated. Subsection (d)] requires that the governor appoint fisheries trust board members "who have a diversity of experience relevant to the operations of a fisheries trust." This provision also would require that "for each board, at least two individuals have experience in the commercial fishing industry." These requirements were added because the previous version would have allowed anyone to sit on the board. This language will give the governor more direction in how to fill the fisheries trusts board seats.

[10:38:12 AM](#)

MR. MAGDANZ referred to [Section 39], AS 16.44.040(a), on page 22, [lines 15-31, Version M]). He explained that this makes a minor change on line 15. The Legislative Legal and Research Services attorney added the term "permit-related" in front of the words "fees levied," which is not a substantive change to the legislation.

MR. MAGDANZ turned to Section 39, AS 16.44.050(a)(3), on page 23, lines 15-16, Version M]. This language, "subject to AS 16.44.060(d), borrow funds," makes it explicit that while a

fisheries trust may borrow funds, it may not in any way use its permits as securities for those loans. For example, a fisheries trust could seek to obtain a loan from a bank to acquire a permit, but it cannot use its permits as collateral, which applies to everyone. Although this prohibition was in previous drafts, it is now clearer in [Version M].

MR. MAGDANZ turned to [Section 39], to proposed AS 16.44.050(a)(6), [on page 23, lines 15-16, Version M]. He explained that this requires a fisheries trust to temporarily transfers permit according to the process he described in Section 29. He said it also removes the "lease to own" provisions present in the previous version of the bill because the new mechanism of temporary transfer makes them unnecessary. The Legislative Legal and Research Services attorney advised that, under the bill, the lease to own provisions were no longer necessary since a fisheries trust has the power to permanently transfer a permit out of the fisheries trust to a former temporary transferee. He said he would explain more about this later. The question of "termination or revocation of a temporary transfer" is now covered in Section 29, [Version M], as previously discussed.

[10:40:39 AM](#)

MR. MAGDANZ referred to [Section 39] proposed AS 16.44.050(a)(7), on page 23, lines 17-18, which has been added in [Version M], provides language that is consistent with the temporary transfer procedure.

MR. MAGDANZ referred to [Section 39] proposed AS 16.44.050(b)(1) on page 23, lines 24-26, [Version M], which specifies that a temporary transfer, unlike a lease, would be subject to the CFEC review and approval, he said. He explained that this somewhat addresses Representative Eastman's question in a previous committee meeting about the difference between a "lease" and a "temporary transfer."

MR. MAGDANZ turned to [Section 39] proposed AS 16.44.050(b), on page 24, lines 1-5, [Version M]. He said that the language of paragraphs (4) and (5) has been rewritten to account for the new temporary transfer mechanism. He added that the substance of paragraph (5) is the same; however, the substance of paragraph (4) is slightly different to account for new procedures for revoking temporary transfers relative to the procedures that existed in prior versions for terminating leases.

MR. MAGDANZ referred to [Section 39] to proposed AS 16.44.050(c), on page 24, lines 6-15, [Version M] and said this subsection describes the preference criteria mentioned in a prior committee meeting's presentation. It states that a fisheries trust can weight competitive bids it receives, based on one or more of four criteria. He referred to the four criteria found in subsection (c), which read as follows:

- (1) history of participation in the fishery for which the temporarily transferred entry permit would apply;
- (2) access to economic opportunities other than commercial fishing;
- (3) record of participation in commercial fishing organizations and fisheries management; or
- (4) expected economic contribution to the fisheries trust region if the bidder is awarded a temporarily transferred entry permit under this chapter.

MR. MAGDANZ said a fisheries trust does not have to weight bids according to these criteria; however, it could ask applicants questions based on the four criteria he just mentioned and assign points based on the answers received. He characterized this process as being like the process which the CFEC uses when allocating permits in a fishery that becomes limited.

[10:43:41 AM](#)

REPRESENTATIVE EASTMAN asked whether a fisheries trust could apply additional or different criteria than these [under AS 16.44.050(c)(1)-(4)].

MR. MAGDANZ answered no.

MR. MAGDANZ turned the page on the Summary of Changes to [Section 39], to proposed AS 16.44.050(d) and (e) [on page 24, lines 16-18], noting that this new language would explicitly prohibits a fisheries trust from holding an CFEC interim-use permit, noting these permits are non-transferable permits, generally issued in non-limited fisheries. In addition, a "fisheries trust" cannot hold a vessel permit or "quota share" from a federally managed fishery. These restrictions were implied in previous versions of HB 188, but the sponsor wanted to make it explicit and clear that a fisheries trust is only

allowed to hold transferable, State of Alaska limited entry permits, he said.

MR. MAGDANZ, referring to [Section 39] to AS 16.44.060, [on page 24, lines 27-31, and page 25, lines 1-16, Version M], stated that this language covers rules governing what and how many permits a fisheries trust may hold. He explained that concern arose regarding the potential for fisheries trusts to interfere with markets for permits in very small fisheries. He said 13 limited fisheries in Southeast Alaska alone have fewer than 40 permits. The concern is that a fisheries trust acquiring those permits could impact an individual's ability to acquire a permit, he said. This language limits fisheries trusts to acquiring permits only in fisheries with 40 or more transferable limited entry permits.

[10:46:03 AM](#)

REPRESENTATIVE TARR asked for confirmation that the last version of the bill [Version U] set a 2.5 percent cap on the number of permits in a fisheries trust] as one way of constraining it [the number of permits]. She indicated that the language Mr. Magdanz just now described is a second layer that would only apply to fisheries of a certain size.

MR. MAGDANZ answered that Representative Tarr was correct in her interpretation, that the 2.5 percent cap is still present in Version M; although, it was changed slightly. The previous version of the bill [Version U] set a 2.5 percent cap "rounded up to the nearest whole number," but Version M now states 2.5 percent "rounded to the nearest whole number." He clarified that rounding to the nearest whole number makes for a slightly more conservative cap.

[10:46:43 AM](#)

REPRESENTATIVE KREISS-TOMKINS, prime sponsor of HB 188, further commented that the goal of this is to provide a stepping stone for entry into the major "meat and potato" fisheries, such as those for sockeye or Coho salmon fisheries. He said that for the fisheries that have less than 40 transferable limited entry permits, some permits exist only on paper, perhaps because these fisheries have not been prosecuted in some time. Also, some are very small, niche fisheries, which if included in a fisheries trust, might add complexity and unintended consequences.

[10:47:26 AM](#)

CHAIR STUTES asked whether permits held by a fisheries trust that liquidates would go back to the CFEC and become available or if the fisheries trusts could sell those permits.

MR. MAGDANZ responded that Version M would allow a fisheries trust to permanently transfer permits out of the trust, which is considered the same as selling them. He said, if a trust is dissolved, the permits would revert to the CFEC where they would be reissued back into the open market.

MR. MAGDANZ referred [Section 39], to proposed AS 16.44.060(e), on page 25, lines 15-16, [Version M] stating this subsection was also new language that would require a fisheries trust to receive fair market value when it transfers a permit out of the trust. It is intended to prevent the trusts from speculating in the permit markets for the sole purpose of making money. For example, this language would ensure that a fisheries trust that may have received a permit at sub-market cost cannot sell it into the market to increase its cash flow since that is not the purpose of fisheries trusts. Instead, their purpose is to provide those permits to people who want to become fishermen.

[10:49:17 AM](#)

MR. MAGDANZ directed attention to [Section 39] proposed AS 16.44.070(c) on page 25, lines 25-27, [Version M], which allows for a temporary transfer permit to be emergency transferred, which was previously covered.

MR. MAGDANZ directed attention to [Section 39], AS 16.44.070(e), on page 25, [lines 30-31 and page 24 lines 1-5, Version M], and said this subsection makes it clear that a fisheries trust, not a temporary transferee, is responsible for paying the CFEC renewal fees on a permit.

MR. MAGDANZ turned to [Section 39], AS 16.44.070(f), on page 26, lines 3-5, [Version M], which is a new subsection that makes it clear a temporary transfer can only be revoked in situations specified by law. He noted that is the difference with lease arrangement, with perhaps a wider range of reasons for a permit being revoked. The new language [Version M] makes clear that a temporary transfer be revoked only due to the allowable reasons set in statute.

MR. MAGDANZ turned to [Section 39] to AS 16.44.080, on page 26, lines 6-23, [Version M]. He characterized these as substantial

changes, primarily due to the removal of the nonresident prohibition. In the previous version of the bill [Version U], the proposed AS 16.44.080 would have restricted fisheries trusts to only providing permits to Alaska residents, as previously discussed. He explained that this restriction was removed for constitutional reasons.

MR. MAGDANZ turned to [Section 39] AS 16.44.080(a)(3), on page 26, lines 12-13, [Version M], stating this paragraph requires that a temporary transferee be able to actively participate in the fishery for which a temporary transfer permit applies. This language is modeled after a standard the CFEC uses to determine if an individual is eligible for a permanent transfer of a permit, he said. He directed attention to the last changed to Section 39, is to AS 16.44.080(d), [on page 26, lines 21-23, Version M], which states that a fisheries trust does not have to accept bids from an individual who has had a temporary transfer permit revoked. He explained that without this language, a fisheries trust would technically have to consider that individual's application.

[10:51:49 AM](#)

MR. MAGDANZ offered to review the remaining changes incorporated into Version M in batches. He referred to Sections 41-50, on page 27, [lines 20-31, page 28 lines 1-31, page 29 lines 1-31, and page 30, lines 1-8, Version M]. These provisions pertain to specific taxes and assessments that fisheries groups can self-impose for specific purposes. He noted that the previous version of the bill [Version U] would have inadvertently exempted temporary transferees from paying any taxes or fees, which was never the sponsor's intention. Sections 41-50 make clear that temporary transferees are subject to taxes and fees, if they exist. In addition, these sections also include language that would prohibit temporary transferees from voting on whether to impose taxes and fees since these individuals are temporarily in the fisheries. Decisions on taxes and fees should be made by those who have a long-term tie to the fishery. He detailed the taxes and assessments, stating that Sections 41-43 pertain to salmon enhancement taxes; Sections 44 and 45 apply to dive fishery management assessments; Sections 46 and 47 apply to salmon fishery assessments; Section 48 applies to permit buyback assessments; and Sections 49 and 50 apply to seafood development taxes.

CHAIR STUTES asked if these would cover the voluntary Alaska Seafood Marketing Institute (ASMI) tax.

MR. MAGDANZ answered yes and explained it was intended that temporary transferees should not have an economic advantage over someone who holds a permanent permit. He further explained the rationale, such that if an individual permit holder is paying the ASMI tax, the temporary permit holder should also pay it since temporary transferees benefit from the marketing that ASMI provides.

MR. MAGDANZ, turning to Section 54 [on page 30, lines 23-31, and page 31, lines 1-12, Version M] said this section makes a minor change. It states that the DCCED shall consult with the Alaska Department of Fish & Game (ADFG) to consider salmon administrative area boundaries when dividing the state into distinct fisheries trust regions.

MR. MAGDANZ, turning to Section 55, [on page 31, lines 13-31, Version M], said this section pertains to limited authorization and how the DCCED would choose the three initial fisheries trust regions when more than three applications are submitted. In short, if the proposed bill were to pass and more than three regions apply to create a fisheries trust, how the department choose which ones to authorize. This language was in a prior work draft, and the only change in [Version M] is to reflect the dates since the legislature is now in its second session.

MR. MAGDANZ turned to Section 56, on page 32, [lines 1-2, Version M], and said that adds Sections 52, 54, and 55 would take effect immediately. In addition, Section 57 [on page 32, line 3, Version M] changes the effective date to account for the fact that the legislature is now in its second session.

[10:56:09 AM](#)

REPRESENTATIVE EASTMAN asked what would happen if a fisheries trust is unable to find individuals to receive temporary transfer permits.

MR. MAGDANZ answered that a fisheries trust has options. First would be to continue to advertise another bid period and advertise more widely. Second, a trust could decide to not issue the permit to anyone, which would not be ideal as there would be no earnings on the permit. Third, a fisheries trust could transfer the permit away from the fisheries trust. He related a scenario in which a fisheries trust might say that it acquired a permit for a period, but it is clear there is not any

more demand; the fisheries trust could then transfer it out and acquire a different type of fishery permit, he said.

[10:57:57 AM](#)

REPRESENTATIVE TARR pointed out that there are two letters of support for [HB 188] - one from the Bristol Bay region and one from Sitka. She asked if these were the two leading areas where this program might be implemented.

[10:58:40 AM](#)

REPRESENTATIVE KREISS-TOMKINS, prime sponsor of HB 188, responded that there has been a good deal of interest from the Bristol Bay region, as indicated by the letter Representative Tarr referenced. He offered his belief this interest is in part due to a trend of permits out-migrating from that area. He said he would not make the same statement about the Southeast Alaska region because it is more heterogenous, in terms of all the different fisheries and communities. He reiterated that Bristol Bay has shown quite a bit of interest, as have as a few other regions of Alaska. He said that while he would not include Southeast Alaska in that category, there is localized interest in the Southeast region.

[10:59:58 AM](#)

CHAIR STUTES, directed to the CFEC, asked whether there is a limit on the number of times one license can have an emergency transfer.

[11:00:14 AM](#)

BRUCE TWOMLEY, Commissioner; Chair, Commercial Fisheries Entry Commission, answered no. He explained that each recipient of an emergency transfer is the holder of the permit for that time. Each permit holder can, if they are injured or qualify in some other way, apply for an emergency transfer.

[11:00:53 AM](#)

CHAIR STUTES announced that HB 188 was held over.

[11:01:40 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Fisheries Committee meeting was adjourned at 11:02 a.m.