

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 26, 2017

1:03 p.m.

**MEMBERS PRESENT**

Representative Andy Josephson, Co-Chair  
Representative Geran Tarr, Co-Chair  
Representative Dean Westlake, Vice Chair  
Representative Harriet Drummond  
Representative Justin Parish  
Representative Chris Birch  
Representative DeLena Johnson  
Representative George Rauscher  
Representative David Talerico

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Chris Tuck (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 107

"An Act relating to certain fish; and establishing a fisheries enhancement permit."

- HEARD & HELD

HOUSE BILL NO. 197

"An Act relating to the duties of the commissioner of natural resources; relating to agriculture; and relating to community seed libraries."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 107

SHORT TITLE: FISH ENHANCEMENT PERMITS

SPONSOR(S): REPRESENTATIVE(S) TALERICO

02/06/17	(H)	READ THE FIRST TIME - REFERRALS
02/06/17	(H)	FSH, RES
02/28/17	(H)	FSH AT 10:00 AM GRUENBERG 120
02/28/17	(H)	Heard & Held

02/28/17 (H) MINUTE (FSH)  
04/18/17 (H) FSH AT 10:00 AM GRUENBERG 120  
04/18/17 (H) Moved CSHB 107(FSH) Out of Committee  
04/18/17 (H) MINUTE (FSH)  
04/19/17 (H) FSH RPT CS(FSH) NT 2DP 3NR  
04/19/17 (H) DP: EASTMAN, FANSLER  
04/19/17 (H) NR: NEUMAN, KREISS-TOMKINS, STUTES  
04/19/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/19/17 (H) Heard & Held  
04/19/17 (H) MINUTE (RES)  
04/21/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/21/17 (H) -- MEETING CANCELED --  
04/26/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124

BILL: HB 197

SHORT TITLE: COMMUNITY SEED LIBRARIES  
SPONSOR(s): REPRESENTATIVE(s) JOHNSTON

03/24/17 (H) READ THE FIRST TIME - REFERRALS  
03/24/17 (H) RES, FIN  
04/10/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/10/17 (H) -- MEETING CANCELED --  
04/12/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/12/17 (H) Scheduled but Not Heard  
04/13/17 (H) RES AT 5:00 PM MR. ASHTONRNES 124  
04/13/17 (H) -- Continued from 4/12/17 --  
04/17/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/17/17 (H) Scheduled but Not Heard  
04/19/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124  
04/19/17 (H) Heard & Held  
04/19/17 (H) MINUTE (RES)  
04/26/17 (H) RES AT 1:00 PM MR. ASHTONRNES 124

**WITNESS REGISTER**

ELIJAH VERHAGEN, Staff  
Representative Dave Talerico  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Talerico, sponsor, answered questions regarding CSHB 107(FSH).

FORREST BOWERS, Deputy Director  
Division of Commercial Fisheries  
Alaska Department of Fish and Game  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding CSHB 107(FSH).

OLIVER HOLM  
Kodiak, Alaska

**POSITION STATEMENT:** Testified about his concerns regarding HB 107.

ALEXUS KWACHKA  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 107.

ROBERTA HIGHLAND  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 107.

ERIC GEBHART, Superintendent  
Nenana City School District  
Nenana, Alaska

**POSITION STATEMENT:** Testified in support of HB 107.

DAVID OTNESS  
Cordova, Alaska

**POSITION STATEMENT:** Testified in support of HB 107.

BRIAN ASHTON  
Wrangell, Alaska

**POSITION STATEMENT:** Testified on his own behalf and representing Tanana Chiefs Conference in support of HB 107.

SARAH OBED, Vice President of External Affairs  
Doyon, Limited  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 107.

TERRANOVA TASKER, Staff  
Representative Jennifer Johnston  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Johnston, sponsor, presented the changes made in Version O, the proposed committee substitute for HB 197.

ROB CARTER, Manager  
Plant Materials Center  
Division of Agriculture  
Department of Natural Resources  
Palmer, Alaska

**POSITION STATEMENT:** Answered questions relating to HB 197.

DEIRDRE HELFFREICH

Ester, Alaska

**POSITION STATEMENT:** Testified in support of HB 197, but noted her concern with some of the provisions in Version O.

JAN FLORA

Homer, Alaska

**POSITION STATEMENT:** Testified in support of HB 197, Version O.

REPRESENTATIVE JENNIFER JOHNSTON

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** As sponsor of HB 197, provided her opinion on the language in a proposed amendment to the bill.

#### **ACTION NARRATIVE**

[1:03:56 PM](#)

**CO-CHAIR GERAN TARR** called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Tarr, Birch, Parish, Talerico, Westlake, and Josephson were present at the call to order. Representatives Johnson, Drummond, and Rauscher arrived as the meeting was in progress.

#### **HB 107-FISH ENHANCEMENT PERMITS**

[1:05:20 PM](#)

CO-CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 107 "An Act relating to certain fish; and establishing a fisheries rehabilitation permit." [Before the committee was CSHB 107(FSH).]

[1:05:29 PM](#)

ELIJAH VERHAGEN, Staff, Representative Dave Talerico, Alaska State Legislature, on behalf of Representative Talerico, sponsor, stated the sponsor would like to offer some amendments.

CO-CHAIR TARR noted that CSHB 107(FSH) is the version of the bill before the committee.

[1:06:55 PM](#)

REPRESENTATIVE TALERICO moved to adopt Amendment 1, labeled 30-LS0396\R.1, Bullard, 4/21/17, which read:

Page 4, line 16:

Delete "A"

Insert "The commissioner may modify, suspend, or revoke a permit issued under this section for good cause. If a permittee violates this section, a regulation adopted under this section, or a condition of a permit issued under this section, the commissioner may, after giving the permittee notice and an opportunity to be heard, suspend or revoke a permit issued under this section.

(j) Subject to (i) of this section, a"

Reletter the following subsection accordingly.

CO-CHAIR TARR objected for discussion purposes.

[1:08:05 PM](#)

The committee took a brief at ease.

[1:08:58 PM](#)

REPRESENTATIVE TALERICO explained Amendment 1 addresses the issue of certain occasions "when something is misunderstood, what do we actually do, you know, to correct that, and so this, this amendment was brought forward to address that particular issue."

[1:09:46 PM](#)

FORREST BOWERS, deputy director, Division of Commercial Fisheries, Alaska Department of Fish and Game (ADFG), further explained Amendment 1 would add provisions that allow for the revocation or amendment of a permit. These provisions, he continued, are consistent with language in [ADFG's] other permitting regulations and statutes, and [ADFG] would try to work with the permittee first if any deficiencies were identified. [The department's] intent would be to try to get the deficiencies and the course corrected rather than to immediately revoke a permit. Sometimes things don't always go as planned, he said, or the permittee's plans change, or the permittee is no longer interested in pursuing the project, or the project doesn't work out the way the permittee thought it would. In these cases, Amendment 1 would allow for a permittee

to apply for an amendment and/or if someone was unable to follow through with the permit terms or was violating the terms, Amendment 1 would give the department the ability to revoke that permit.

[1:11:07 PM](#)

CO-CHAIR TARR, in regard to other types of permits, asked whether it is always the power of the commissioner to revoke a permit and be the decision-maker.

MR. BOWERS replied correct. Often that authority is delegated to other staff in the department, he added, but ultimately that is the commissioner's authority.

[1:11:30 PM](#)

REPRESENTATIVE BIRCH recalled hearing testimony about the concern of spreading maladaptive traits, for example, the hatchery could adversely influence the normal evolutionary practice of salmon spawning in a stream. He said it seems like this proposal would sidetrack all of that because salmon would not be raised in a hatchery, rather it is fertilizing the eggs and then immediately discharging them into their source waters. He asked how that could adversely impact a natural run of salmon.

MR. BOWERS responded that the concern is about loss of genetic diversity or loss of fitness, and is a concern that is heard and associated with almost any enhancement project. He said this bill would allow for small-scale fishery enhancement or rehabilitation. Eyed eggs would be placed into the gravel and the fry would not be fed. Another concern that has been heard is that wild fish select mates using adaptive characteristics that have evolved through natural selection. In a hatchery or enhancement setting, humans are doing the mate selection for the fish and so there could be some loss of fitness through that process because humans don't know all the drivers of mate selection. He acknowledged that is a valid concern. But, he continued, having a large population and spawning enough fish in the rehabilitation project can provide mitigation to prevent a bottleneck to genetic diversity.

REPRESENTATIVE BIRCH surmised that Amendment 1 would preserve [ADFG's] ability to manage that.

MR. BOWERS agreed that language in the bill would allow [ADFG] to provide those stipulations in the permit.

[1:15:49 PM](#)

The committee took a brief at-ease.

[1:16:28 PM](#)

CO-CHAIR TARR removed her objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[1:16:44 PM](#)

REPRESENTATIVE TALERICO moved to adopt Amendment 2, labeled 30-LS0396\R.2, Bullard, 4/25/17, which read:

Page 4, line 29, through page 5, line 2:  
Delete all material.

Renumber the following bill section accordingly.

[1:16:52 PM](#)

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE TALERICO thanked Co-Chair Josephson for a lengthy discussion with him in regard to [section 2 of the bill] and said as a result of this discussion, he was told by the Legislative Legal Services that [section 2] doesn't need to be in the bill because it doesn't really address anything particularly like that. [Section 2], he continued, was put in when the bill was drafted to connect to a particular area of statute, but it didn't need to be connected, which is why he is bringing forward Amendment 2.

[1:18:19 PM](#)

CO-CHAIR TARR said Amendment 2 would delete section 2 and a concern was raised that the amendment could potentially mean that one doing a construction project could participate in a rehabilitation permit instead of mitigating the impacts of the construction.

[1:19:45 PM](#)

The committee took a brief at-ease.

1:20:50 PM

REPRESENTATIVE PARISH asked whether section 2 is being deleted because it is already the case that the department could consider this sort of project as an alternative to rehabilitation.

MR. BOWERS agreed section 2 has created confusion and apologized for not accurately characterizing the intent of this section when he was last before the committee. He said he spoke with the Department of Law after attending the meeting between Representative Talerico and Co-Chair Josephson. Section 2, he explained, relates to AS 16.05.871, which addresses fish habitat permits that would be issued related to construction projects. He surmised section 2 was originally included in the bill because it is possible that some of the rehabilitation projects that would be permitted under HB 107 might require one of those permits as well. Regardless of whether section 2 remains in the bill, he said, [ADFG] would still go through the same process for those permits. It just adds another bit of language referencing those permits, and that the commissioner would have to consider whether a person had one of these HB 107 permits when evaluating a person's fish habitat permit application.

1:23:11 PM

CO-CHAIR TARR removed her objection to Amendment 2. There being no further objection, Amendment 2 was adopted.

1:23:35 PM

CO-CHAIR JOSEPHSON, in regard to Mr. Bowers' statement that ADFG hears concerns about enhancement programs, asked whether the concerns expressed about this program are different in type. For example, he noted, other hatcheries are tied generally to some quasi-governmental institution while this one isn't.

MR. BOWERS responded that the concerns are similar. Concerns about genetics, loss of genetic diversity in wild stocks, and interbreeding between hatchery and wild fish are the major concerns that are heard by [ADFG]. Also heard are concerns about pathology or the introduction of disease, he said. Other fishery management issues come up that are related to large-scale hatcheries, but those are separate from the biology aspects. The biological concerns, he continued, are universally

heard on any enhancement or rehabilitation type of program involving a hatchery.

[1:25:40 PM](#)

CO-CHAIR JOSEPHSON inquired about ADFG's internal process and whether there is robust debate within the department. For example, he continued, whether the hatchery biologist provides an opinion and whether that bounces back up to the directors in the top echelons for an internal debate.

MR. BOWERS answered there is an internal review process that involves staff from the Division of Sport Fish and the Division of Commercial Fisheries. The review process starts at the area level, he explained. Staff from the area office located closest to the project in question and most familiar with the resources will review and comment on the application. It then comes up in the regional office for additional review and comment, and if there are concerns the applicant is asked for clarification or ADFG may put stipulations on the permit to address those concerns. Ultimately there is a review by staff in headquarters at the director's level and, if warranted, at the commissioner's level.

[1:27:01 PM](#)

CO-CHAIR JOSEPHSON asked whether ADFG's position on the bill is neutral.

MR. BOWERS replied that the department doesn't have any objections to the bill. Some of the bill's provisions are stronger in terms of the conservation measures than the department's current bio-enhancement and research permit, and the department sees it as a little duplicative of its existing permits. But, he continued, he would say the department is "neutral leaning towards positive."

[1:28:10 PM](#)

REPRESENTATIVE WESTLAKE offered his understanding that the indigenous fish are taken from a stream, put in a hatchery, and then the [offspring of these] fish are released into the "fish eat fish world." He questioned the argument on genetic inferiority if these fish come back and have survived along with all the other fish.

MR. BOWERS responded that it is not necessarily a question of inferiority but a question of potential loss of diversity. For example, he explained, suppose there is a salmon population spawning in a particular body of water and an enhancement project is done where only certain individuals are selected, such as selecting a certain size of fish or selecting from a spot where the fish are easier to catch. Doing that and then putting them into the incubation or rearing setting increases the survival of those eggs and juveniles so they have an advantage and may be able to out-compete the other fish because of that advantage. The intent is to increase survival, and selecting certain individuals in the population, whether intentionally or not, disadvantages the other individuals.

[1:30:02 PM](#)

REPRESENTATIVE RAUSCHER inquired whether there is a fiscal note from the Division of Agriculture, Department of Natural Resources.

CO-CHAIR TARR replied that the fiscal notes are from ADFG, not the Division of Agriculture. She offered her belief that the fiscal notes are zero because ADFG [already] issues permits, and the bill would not change the type of work that is being done.

MR. BOWERS confirmed that Co-Chair Tarr is correct. He said a team is already in place that evaluates this type of permit application and the department doesn't anticipate a large number of permit applications if the bill becomes law. The applications would be absorbed into the normal workload, no new staff would be hired, and no funding increment would be requested for this program.

CO-CHAIR TARR, responding to Representative Rauscher, confirmed the fiscal note [Identifier: HB107-DFG-DCF-02-24-17] is zero.

MR. VERHAGEN pointed out that the bill includes a permit application fee of \$100, and said this fee should cover the cost of the permit should there be any extra workload.

[1:32:25 PM](#)

CO-CHAIR TARR reopened public testimony.

[1:32:44 PM](#)

OLIVER HOLM testified he is not against salmon enhancement, which is evidenced by his 30 years volunteering as a board member of a regional salmon enhancement program. However, he said, he has some concerns with the bill. He drew attention to section 1, page 2, lines 14-15, which state, "the species and number of fish to be taken and, if applicable, the number to be taken for brood stock". He said this implies that fish would be permitted to be taken that weren't for brood stock and taking numbers beyond brood stock would be of great concern. He then brought attention to section 1, page 2, lines [24-31], which provides that the department may issue a permit under this section if the commissioner determines that the project may restore or increase a population of fish in a body of water in which "the population of the species of fish is limited". He stated that all populations of fish are limited, and therefore this provision seems "wide open".

MR. HOLM further noted that the egg limit of 500,000 with the permits could mean the taking of 200 to 500-plus adult salmon for their eggs. Because this could be significant to some depressed populations, he said he hopes the department would have the liberty to disallow granting permits in places where the salmon [numbers] are too depressed. He further expressed his concern about the added burden to ADFG without money to do this. He offered his belief that the permitting section will be losing another position in the next budget year. Additionally, he cautioned, the bill would set tight timelines for handling and issuing the permits, which may be difficult for the department to accomplish without reducing its ability to handle regular permitting for the regional aquaculture associations and the other nonprofits.

[1:35:29 PM](#)

CO-CHAIR TARR offered her understanding that Mr. Holm is saying the limit of 500,000 eggs would require the taking of from 200 to 500 adult salmon to harvest the eggs and that that may be too many for an area where the stock is challenged or strained.

MR. HOLM replied correct, the average fecundity of sockeye, king, coho, and chum salmon is in that ballpark.

[1:36:11 PM](#)

ALEXUS KWACHKA testified he is adamantly opposed to the bill. He agreed with Mr. Bowers that it is duplicative of what is already being done [by ADFG]. He said [Alaska] can look to

Europe, the East Coast, and the West Coast for failed salmon policies. [Alaska] has an excellent resource and needs to be concentrating on taking care of the fish that are returning and figuring out how to encourage them to spawn more and be more productive without playing with Mother Nature. This bill is the wrong way to go. Degradation is already occurring in Alaska's streams, such as illegal crossing of streams by four-wheelers, he continued, and he does not want this bill to be an avenue to shore-up species that are being impacted by humans. A much better job can be done of managing what the state already has without tinkering with Mother Nature. It is critical to keep the diversity and survivability of the fish that are returning to [Alaska's] streams without introducing who knows what. Good intentions, he cautioned, have paved the pathways to hell.

[1:38:08 PM](#)

ROBERTA HIGHLAND testified she is opposed to the bill. She said more information is needed to review the research that is already at [the state's] disposal. Adding fish may sound like a solution, but it has far-reaching consequences, she stated. Every time fish are added somewhere it possibly weakens the wild stocks and those are what should be concentrated on. Hatcheries bring many problems, she continued, and these problems have been ignored for a long time. Overtaxing a food source by adding from five hundred thousand to one hundred million fish is messing around with Mother Nature. Whenever humans have messed around with Mother Nature there have been consequences that were not considered because humans cannot outthink all the different issues, she added. Human stupidity is responsible for degrading the habitat. She reiterated her opposition to the bill and urged it be held until the research is done.

[1:40:06 PM](#)

CO-CHAIR TARR inquired whether Ms. Highland has sources that could be read in regard to the issue of overtaxing the food source for the other salmon. She offered her understanding that a stream has a certain food source supply for the fry as they are developing and what Ms. Highland is saying is that artificial inflation of the number of fry will create too much competition for the available food source.

MS. HIGHLAND replied that a lot of new research is coming out on hatcheries. She said Paul Greenburg's book, Fish on My Plate, talks about this problem and that Mr. Greenburg spoke on the

program called "Talk of Alaska" on [04/25/17]. She agreed to provide information to the committee on this issue.

1:42:13 PM

ERIC GEBHART, Superintendent, Nenana City School District, testified in support of the bill. He said the principal interest of the school district is the educational benefit of students, and the bill would be of educational benefit to students. The bill would encourage curriculum development that would meet educational standards in science and cultural standards, he continued. The school district would be able to work with parties who are educated in this area to teach the students about how to enhance and restore the wild salmon runs. He added that he is speaking in support of the bill because students, teachers, and the community are interested.

1:43:44 PM

DAVID OTNESS testified that while he hears the concerns on the bill, he is unable to connect the dots. For example, he said, if a salmon run is ready to go extinct, the best thing that could be done would be to enhance it. The bill is not a hatchery bill, he stated, and there would be no food or antibiotics; it would be as natural as it can get without having the salmon in the wild. In regard to genetic selection, he noted that the usual means of fertilizing the eggs is to use several males, but if it is already down to a point of minimum access to a species, the choices are limited and at that point fewer males might be used than would usually be done. The point is to save the run and to enhance it, he said. The bill is not about urban areas that are overrun with four-wheelers, he continued, but rather about villages up north and smaller communities that don't have intense pressure, and therefore he doesn't think the points being made by the other testifiers are valid. Up north there are many environmental stressors for the fish going both upstream and downstream, he added.

MR. OTNESS said the bill is timely for his area because on the Copper River there have been some real issues in the commercial salmon fishery. Last year was a total bust for the seiners and the gillnetters, he related, but a late season hit of coho salvaged the season for many people. This year's management plan will allow a total catch of 4,000 king salmon on the Copper River, he reported, while in the past this river has supported a commercial fishery of upwards of 60,000 king salmon. For some reason the kings are not getting back, which puts the viability

of the salmon run in question, and also shuts down the entire gillnet fishery if that cap is exceeded. The openings are very limited, and the management is being very conservative, he continued. Sacrifices are being made on the lower Copper River and it begs the question of adequate enforcement upstream because the sport fishery is likely to be shut down as a result of this, too. Therefore, he said, the possibility of enhancing the Copper River run opens up much more accessibility to all the people from Anchorage and Fairbanks, and [the bill] is something he would not like to see shut down. A trial run in Representative Talerico's district is a good idea, he stated, and the bill has more positives than negatives.

[1:50:32 PM](#)

BRIAN ASHTON testified he is representing himself as well as the Tanana Chiefs Conference (TCC). Speaking on behalf of TCC, he said TCC would like to have this necessary tool in its tool belt for managing its fisheries resources that have been depleted for a very long time. [TCC] would like to work with ADFG to do it appropriately, as it has been done for the past 15 years and in some cases on the Copper River for 40 years. This has been done, it has worked, and there have never been any crises in genetics, he stated. However, there is no formal process in place, so this bill would create a clear process for doing this and ensuring it is done right.

MR. ASHTON, speaking on his own behalf, said he has been doing this and helping communities to get permits from ADFG and today's process is not clear. However, he continued, the number of eggs is very tightly managed and [ADFG] looks at the number of fish in the creek and the number of fish to be taken. The process goes to the sport fish, commercial fish, pathology, genetics, and the regional managers, he advised. They all sign off on the last sheet and the final signature is the commissioner approving the permits, so ADFG scrutinizes this very well.

MR. ASHTON explained that this is about stocks that are at risk to such a level that the genetic integrity is already at risk. When the stock gets so low that it is basically brothers and sisters coming back to spawn, there is a problem. In regard to the issue of genetics and choosing how the fish mate, he related that he has been in meetings in the Lower 48 where more fish must be re-introduced. In California, non-native coho had to be introduced in a river system because there were so few fish that if they had mated there would have been a genetic problem of

brothers and sisters. He recalled that about 10 years ago a permit in Nome required the taking of 80,000 eggs to get the needed genetic diversity. So, he continued, ADFG completely understands the genetic processes and they work.

MR. ASHTON said he has witnessed and has videos of salmon coming into a creek and starting to spawn. The big alpha males are clearly saying to the others, "I'm spawning and you're not, so stay away," and the smaller males will hang back from the females that are going to spawn. He explained that depending on the species, some females will spawn three to five times in several different redds. The big male stays beside her and runs the smaller males away, but when the spawning starts the big male cannot watch everything and when he starts to spawn the smaller male will race in under him and spawn too. As the big male regains his composure it is clear he is furious as he chases the smaller males down the creek. It is hilarious to watch, he said, but it is also educational because it is genetic diversity in action. He stated that ADFG's policy with the hatcheries - which this is not - includes very strict guidelines to catch both large and small males. The genetic policy has been developed for many, many years, he continued. This policy has been used for over [four] decades on the Copper River without any measurable problems. Environmental groups have done studies looking for problems and haven't found any, he maintained. The Copper River red salmon are the first to hit the market and are incredibly valuable. If there were a problem, it would have been adjusted a long time ago.

[1:56:10 PM](#)

REPRESENTATIVE PARISH asked how many eggs are fertilized in the Copper River.

MR. ASHTON replied that it began in 1973 and for the last 10 years it has been 36 million eggs per year. The Copper River has a unique situation, he explained, in that when the big earthquake happened some of the ground shifted and didn't allow the fish to migrate in certain areas. During the 1960's and 1970's it was found that there was a huge amount of habitat for the fish but very little spawning ground, he said. Someone had the bright idea to assist them in that and it has been a huge success ever since. He offered to provide the committee with the studies that have been done and stated that each hatchery is scrutinized intensely, and data is kept. Although this bill is not for a hatchery, this would fall under that as well, he said.

But it doesn't nearly come to some of the challenges and the questions people have about conventional hatcheries.

[1:57:49 PM](#)

REPRESENTATIVE BIRCH inquired whether fry from one stream could be moved into another stream. For example, putting the fry from a stream with extra large salmon into another stream.

MR. ASHTON responded that that is being done today. Certain streams in the Lower 48 have nonindigenous coho that were introduced 80 years ago. The issue is convoluted, he said, and the answer is yes, it can be done, but this bill was carefully written and doesn't give the leeway to transplant. He offered his opinion that much more needs to be learned to go that far.

MR. ASHTON related that the largest king salmon on record weighed 126 pounds and was caught in a fish trap in 1946 just west of Petersburg off Prince of Wales Island. The management of the day, he said, assumed it was one of the Columbia River's last "June Hogs." The Columbia River big kings were called June Hogs, he explained, because they regularly reached 80 pounds and consistently went over 100 pounds. A scale sample showed this particular fish to be a six-year-old ocean fish. The Bonneville Dam was being built at this time and did not have a fish pass, he noted, so the Columbia River's stock of mega-sized fish was knowingly killed off.

MR. ASHTON pointed out, however, that in his research over the years he has never found a picture of a June Hog that was shorter than 58 inches long, and he has seen about 25 pictures of pre-1900 fish. The [Columbia River] fish were bigger than the record fish caught in the Kenai River. [The Petersburg] fish was unique in that it was 52 inches rather than 58 inches and it looked like a tuna fish, he said. When fishermen in Wrangell are asked what is the only king salmon that looks like a tuna, they will say from the Bradfield River. Their response is immediate because there is only one fish that looks like that in southern Southeast Alaska. There are no pictures of June Hogs that have that ratio, he continued, and it is indicative of the Bradfield River kings. The Bradfield River was basically [logged] down to the watershed in the 1960's and 1970's and gravel was pulled out of the river to make the logging roads.

MR. ASHTON noted the Bradfield River was never rehabilitated and that fishermen in Wrangell today still talk about what would have potentially been the biggest king salmon in the world. He

further noted that retired personnel from the U.S. Forest Service and ADFG have asked why these Bradfield fish are off the record and have not been brought back. Had this been done there would be two rivers like the Kenai bringing enormous amounts of income to the state. He said Alaska does not currently have a clear consistent process for restoring a stock of fish that has been documented to be down for the last 45 years that has not come back. This bill, he opined, would give a tool to vet through the entire ADFG process, and then to bring a stock back.

2:02:55 PM

REPRESENTATIVE PARISH drew attention to page 1, lines 5-6, and lines 10-11, which state [in part], "the department may issue a fisheries rehabilitation permit that allows a qualified person ... to enhance habitat in water of the state to aid the survival of the fish." He surmised this is the provision for the rehabilitation of stock.

MR. ASHTON responded that the ability to restore habitat is already in place. For example, four tribes on Prince of Wales Island are asking him to work with them because they have spent the last ten years restoring rivers that have been wiped out from logging. The tribes know the fish are not going to rehabilitate because the numbers are simply too depressed. Another example, he related, is Moose Creek near Palmer where the U.S. Navy created a chute for sending down coal to where the ships could collect it. Chickaloon spent about \$1 million over three years to rehabilitate the watershed, he said, but then it was realized that it could be generations before a fish strayed into the stream. The only time a fish strays, he explained, is when its [home] stream is so crowded that there is no room for it to spawn there, and so it goes elsewhere. Alaska's stocks are not robust enough to cause straying and that is why the fish don't come back. So, yes, he continued, there are mechanisms to do rehabilitation, but it wouldn't necessarily be a superfund site. He said he plans to talk to the Alaska congressional delegation about getting help because it is going to be a huge project to restore this watershed and bring back that genetically discreet stock that may or may not still be there.

2:05:27 PM

REPRESENTATIVE PARISH surmised that the bill would allow restoration of the habitat, but would not allow reestablishment of the run if members of that stock could not be found.

MR. ASHTON answered correct. This bill is not necessary to restore habitat because that is already in place. Rather, this bill primarily is focused to address a habitat issue, if there is one, because the fish must have a house to live in. He related that when communities come to him asking for help to restore a stock that has been gone, he will ask whether the habitat needs to be rehabilitated first, which was the case with the Moose Creek watershed. Chickaloon had to fix the house first and then reintroduce the fish.

[2:06:22 PM](#)

CO-CHAIR TARR noted that dam removal in the Lower 48 involves the same concern as the Moose River project in that it could take many decades to just let the wild stock return. She offered her understanding that a specific effort is made to release hatchery fish in places other than where the indigenous stock would be, but what makes this different is that the fish would be released back to the same river. She asked which of these options are being picked in the Lower 48, and requested Mr. Ashton to compare and contrast the two and why the bill's provisions would work in this circumstance.

MR. ASHTON replied that there was a big push in the Lower 48 to put in fish culverts that would pass fish after it was realized that certain culverts made waterfalls at the end that blocked fish from passing. After realizing this error, which in some cases was decades later, flat-bottomed culverts were used. But the policy of just "building it and they will come" did not work because there were no stocks big enough to stray, he said. When the indigenous species is gone, the question for managers and stakeholders is what to do. Using genetics, it might be found that five miles away a stock is found in several places in the region, and so it might be prudent to use that stock. If everyone agrees, then that stock will be used.

MR. ASHTON recounted that he was involved in the development of the Anita Bay cost recovery outside of Wrangell, where it was decided that a terminal harvest area was needed for commercial fishing for the hatchery. The criteria for approval, he said, is that ADFG looks at what the interaction is going to be with any indigenous stocks around the area. The data suggested there were no significant stocks in that area, so ADFG was able to say that there wouldn't be a problem with interaction with wild stocks and so the project could proceed.

[2:09:50 PM](#)

CO-CHAIR TARR offered her understanding that the intent of the bill is rehabilitation of a stock of concern and that is why eggs from that stock would be used and [the fry] released back into that same area.

MR. ASHTON responded that the intent was to take everything that has been learned so far about genetics and write a very conservative process of what would be done. If a stock of fish is not meeting escapement, that stock would be taken and helped to survive, and then would be put back right away with no pens and no feeding. So, he continued, it is radically different than the methods and processes used right now by the mega-hatcheries. Although certain people have lots of concerns about the hatchery operations in existence today, this is a completely different process and people shouldn't be so quick to throw the hatcheries under the bus. He said he was around when the stocks crashed in the 1970's and that hatcheries have stabilized the income opportunities in Alaska's commercial fisheries and have helped dramatically. It is key to constantly look at how to tweak that and make it better. He said he feels confident that enough people have been involved in looking at how these hatcheries are operated, and course corrections are made as more is learned.

[2:11:35 PM](#)

CO-CHAIR JOSEPHSON related that a concern of one of the critics is that if the hatchery occurs and the taking ultimately occurs in the same location as the original wild stock, there would be no way to measure how much of the wild stock is being taken because they would be co-mingled. He asked whether that makes sense and is a concern to Mr. Ashton.

MR. ASHTON agreed it makes sense and explained that written into the bill is a process that ensures there is a very thorough pre-plan that justifies what will be done. He said he would provide the committee with the white paper that he gives to people who come to him about a stock of concern and ask what to do about it.

MR. ASHTON stated that half the people receiving his white paper fall off the radar when they realize that this is serious science and they don't have the resources or capability to follow through unless they can find partners to help. The need must be defined, he explained, to ensure it is being done right and that the genetics are being spoken to correctly because it

is discreet subpopulations within a bigger watershed that are being talked about. For example, the Yukon River is over 1,000 miles long and genetics show that there are a lot of populations of king, coho, and chum all the way up the river. So, when one watershed is found to be at risk, due diligence must be done in regard to the numbers so that the permit [application] includes the historical number of fish going up the river and the current number, along with a plan. All these different issues must be vetted, including genetics, to get a permit approved, he said. If one comes in saying that a river system looks like it should have salmon but doesn't and wants to go plant some eggs, he can attest [it won't happen] once that person sees his white paper and he educates them about the thorough level of science and preparation that must be done. As well, ADFG will tell the person all the things that must be done.

[2:14:11 PM](#)

CO-CHAIR JOSEPHSON offered his understanding that the bill is not for a conventional hatchery but rather a new model. Because these salmon are not landlocked, he noted, whatever may be causing a problem downstream would continue to exist. He inquired whether the idea here is to grow the number [of salmon] to such an extent that it defeats the problem.

MR. ASHTON answered that there are going to be interception issues that might have caused the problem in the first place. However, for whatever reason a stock is diminished, for eggs that have successfully gone through the gamut of juvenile stages in the ocean and have made it back, this bill would allow for more of those wild eggs that came back to the river to simply survive. It is a multi-faceted issue to make sure that False Pass interception is managed, he said. Maybe international fishing boats are out there, and an international agreement is needed. This would augment the survival of those that made it back, taking one more risk out of it to help them survive and it would be done conservatively until those bigger issues are taken care of.

MR. ASHTON recalled his talks with Wrangell elders about the many small watersheds located in Back Channel just behind Wrangell that no longer have a measureable amount of salmon. He said he has reviewed the earliest [historical] documents for that area involving the English who came prior to the Russians, and he found a federal report from 1864 that documents nine tribal houses along Back Channel. It is accepted to say, he continued, that these tribal houses would not have been there if

there wasn't a resource. Management of the fisheries was a big deal. Elders in Hoonah, he related, have told him of how they used to prepare the creeks to ensure the fish could make it back to the creeks. If they didn't have the fish numbers needed, they would take the sperm from the males and fertilize the eggs from the females and put them in cedar baskets back in the creek. So, they did escapement management, he said, and it is from this that he got this idea.

MR. ASHTON pointed out that a seiner could come in, make a great round haul of fish, and thereby unknowingly wipe out a very small subpopulation of fish in a very small river system. No one would ever know it happened. All those long houses were documented [in Back Channel], he stated, but now there are no longer any major fisheries there. These fisheries are gone and have not come back. In regard to genetics, he said his point is that in order for a permit to be issued to take fish from a certain local area within a river system, the [applicant] must provide a plan that shows an understanding of where the various subpopulations are located and how the plan will ensure that all those issues will be managed and addressed.

[2:17:45 PM](#)

CO-CHAIR JOSEPHSON said a concern he has heard has to do with the qualifications required for this model and that anyone who receives a permanent fund dividend (PFD) could theoretically apply. He requested Mr. Ashton's response to this concern.

MR. ASHTON offered his opinion that a person who doesn't know what he or she is doing wouldn't fill out a permit to be considered by ADFG. Also, ADFG would not issue a permit to an applicant who doesn't know what he or she is doing. Understanding how to do this is very serious when it comes to Alaska's wild stocks and ensuring they are healthy, he said. The statement of qualifications in the permit [application] will reflect whether the applicant knows what he or she is doing. This is a process that has been ongoing for decades and ADFG is pretty good about saying no to unqualified applicants as well as saying no if it is unclear to the department whether the applicant is qualified.

[2:19:37 PM](#)

REPRESENTATIVE JOHNSON inquired about the point at which the fry need to be put in a stream for them to align with that stream.

MR. ASHTON replied he would email Representative Johnson a paper about imprinting. He explained that some of the stream water gets into the eggs when the eggs are fertilized. He further explained that when the eggs hatch the alevin still have the yolk sac attached, and live in the gravel. Once the yolk sac is used up the emergent fry come out of the gravel. All three of these stages have processes where the fish imprints to the river, he said, as well as to the specific place in the river from which it came. Each species is different about that - some species are less specific about where they spawn in a river and some, like sockeye, are very specific about where they spawn. The fish imprint to the minerals and other things in the water.

[2:21:28 PM](#)

REPRESENTATIVE JOHNSON recalled a presentation at a conference in which it was stated that a fish imprints on a specific river as well as a specific place in the ocean, so the fish from a specific stream will go to a specific coordinate in the ocean. At what point this imprinting happens, she said, is what she doesn't know. She posited that if one spot in the ocean is getting fished heavily, perhaps certain streams in Alaska will not get a return no matter what is done. She requested Mr. Ashton's thoughts in this regard.

MR. ASHTON replied that ocean survival is a very complex process and new technologies are being used to research where the fish are migrating. He deferred to ADFG to provide more details. In closing, Mr. Ashton added that the need for collecting more data is really important to understand Alaska's resources in the river systems, estuaries, and in the ocean. Additionally, he said, applied science curriculums are desperately needed in Alaska's schools and such curriculums need to have the students actually go in the creeks and be able to touch the fish, not just watch fish on a video. The bill would dovetail into this, he added. It is not only about the fish, but also about how to approach the management of Alaska's natural resources so the resources aren't lost.

[2:25:34 PM](#)

SARAH OBED, vice president of External Affairs, Doyon, Limited, testified in support of HB 107. She said Doyon has been supporting the efforts of the Tanana Chiefs Conference for this bill. She noted that Doyon has provided written testimony in support of the bill and understands that the bill would allow individuals, corporations, school districts, and other

organizations to apply for a fish enhancement permit through ADFG that would allow for limited collecting of fish, the fertilizing and hatching of eggs, and placing the fish back into the water from which they were taken with the expectation of boosting the fertility rate of the eggs. She said Doyon's management and shareholders support the bill.

[2:27:01 PM](#)

[HB 107 was held over.]

**HB 197-COMMUNITY SEED LIBRARIES**

[2:27:56 PM](#)

CO-CHAIR TARR announced that the final order of business would be HOUSE BILL NO. 197, "An Act relating to the duties of the commissioner of natural resources; relating to agriculture; and relating to community seed libraries."

[2:29:17 PM](#)

CO-CHAIR JOSEPHSON moved to adopt the proposed committee substitute (CS) for HB 197, Version 30-LS0493\0, Wayne, 4/24/17, as the working document.

CO-CHAIR TARR objected for discussion purposes.

[2:29:48 PM](#)

TERRANOVA TASKER, Staff, Representative Jennifer Johnston, Alaska State Legislature, on behalf of Representative Johnston, sponsor, explained that Version 0 amends section 4 to address some of the issues brought up by the community and at the bill's last hearing. She said [on page 3, lines 17-19 add language] that would allow for personal noncommercial transfer of seeds. This is the issue where someone's grandmother could give seeds to her neighbors and it would not be in violation of any code or regulation, but that would exist outside of the seed library. On [page 4, lines 7-9 add language] that would allow for seeds from a plant that is grown outside Alaska to be used in a seed library as long as there is compliance with interstate transport of commercial seeds. On page 4, line 15, would increase the volume of seed sharing to one pound, which is in response to public comment that the previous amount was not enough for those seeds that are larger and heavier. On page 4, lines 27-30, add language that would not allow anyone to use marijuana seeds as

it pertains to seed libraries because that is not the intent of the bill.

[2:31:56 PM](#)

CO-CHAIR JOSEPHSON referenced a criticism by P.S. Holloway, who asked why the bill is necessary when it is a deregulated process now. Also, he continued, the current unregulated system is free. He inquired as to why the current system isn't working.

MS. TASKER replied that this bill comes about because current statute says any seed in the state must be regulated. Then, going to code, there are two pages of regulation regarding germination percentages, weights, and everything that is needed for commercial operations. It seems to not be regulated based on the interpretation of the [Department of Natural Resources (DNR)], she said, so the bill carves out a section that seed libraries can exist and then they can have control over what goes on. She deferred to Mr. Rob Carter for further explanation.

[2:33:52 PM](#)

ROB CARTER, manager, Plant Materials Center, Division of Agriculture, DNR, responded that it is an unfortunate misnomer from individuals who are not familiar with the current seed regulations in Title 11 of the Alaska Administrative Code (AAC), Chapter 34. He explained that multiple sections of this code say that any seed transported around the state of Alaska for use in planting, no matter the quantity, must meet the state's labeling requirements for rigorous germination purity and invasive weed testing. These requirements, he said, defeat the purpose of noncommercial seed sharing because these individuals have no intent to sell or generate revenue; they do it for rural food security and genetic diversity. It is regulated, he advised, but is not enforced by DNR upon Alaskans who are just trying to provide closer, better, fresher food, and keep genetic diversity among seeds within the state of Alaska.

[2:35:47 PM](#)

CO-CHAIR JOSEPHSON offered his understanding that Mr. Carter is saying that this is more regulated than people believe, pursuant to Title 11 of the Alaska Administrative Code. Therefore, this legislation springs out of that regulation in a sense.

MR. CARTER answered correct; people don't understand that both the Federal Seed Act and the accessory code regulate seed in Alaska. But, he reiterated, it is not in the best interest of the division [to enforce] because there are "bigger fish to fry." Seed laws are passed with good intention, he said, and have been around for a long time. It is just in recent years that other states have been applying these laws to the noncommercial seed sharing and seed libraries that are more fit for consumer protection and protection of the farming community and the agriculture industry, and applying those laws without reason.

[2:36:51 PM](#)

REPRESENTATIVE JOHNSON asked whether there is a difference between "community seed library" and just "seed library."

MR. CARTER replied that there is no difference and that there is a multitude of common names. People in the seed regulatory side in the agricultural industry look at them as the noncommercial seed sharing activities that are normally located within a library, nonprofit, community organization, or a private organization that has space to allow one.

[2:38:18 PM](#)

REPRESENTATIVE PARISH observed that on page 3, lines 24-27 set up a contrast between plants grown outside the state and inside the state by saying, "outside the state, and imported into the state in compliance with AS 03.05.010(a)(5); or [(2)] in the state, and untreated with a substance toxic to humans, animals, or pollinating insects." He inquired whether this statute allows plants that are treated with substances toxic to humans, animals, or pollinating insects.

MR. CARTER offered his belief that it does. He advised that plants and seeds are very different critters when it comes to the regulatory process. Speaking only to seeds, any seed currently that is being made available for sale or offered for sale must have that specifically on its label within the package. In this case, it is not allowing that within community seed libraries. He offered his professional opinion that these labeling requirements be met, and that there be due diligence because individuals in a free, noncommercial seed library may have children there and sometimes the seed coatings that have been treated with a pesticide are in bright colors. To remove the possibility that an individual might get sick or very sick

and die from ingestion of those, he advised that it is in the best interest of noncommercial use to not allow that within noncommercial seed libraries.

[2:40:37 PM](#)

REPRESENTATIVE PARISH agreed that a seed library shouldn't have any seeds that have been treated with toxic substances. He said he is having trouble seeing why seeds treated with toxic substances should be allowed in community seed libraries if they are coming from out of state. He requested Mr. Carter to provide clarity in this regard.

MR. CARTER suggested Representative Parish talk with the bill sponsor if he believes the language on page 3, lines 24-27, has a loophole for out-of-state seed to be treated and shared with community seed libraries. Mr. Carter said he thinks the language could be interpreted either way.

[2:42:01 PM](#)

CO-CHAIR TARR surmised it would be difficult if a plant were being brought into the state to be able to certify what happened prior to it coming to Alaska.

MR. CARTER agreed it would be very difficult to regulate all imported plants and said the Division of Agriculture does not currently do that. He advised that many of the chemicals in the systemic pesticides used to treat plants do not carry forth within the progeny of the seed and he therefore doesn't think that is a necessary step within this legislation.

[2:42:51 PM](#)

REPRESENTATIVE PARISH said that if the provision that seeds from outside the state should be similarly untreated it would seem that a nationwide standard, such as organic, could be used to avoid having to regulate every other state.

CO-CHAIR TARR advised there are imported vegetable starts that are organic, but said it would be very difficult to do this with flowers or other showy plants because she cannot think of any opportunity to purchase certified organic garden landscaping plants. She requested Mr. Carter's comment in this regard.

MR. CARTER agreed with Co-Chair Tarr. He advised that the U.S. Department of Agriculture (USDA) organic standard is a USDA

program and therefore putting that type of language within legislation could be very limiting. He said he thinks it is up to the individual seed person to do their due diligence to provide the seed that is best for the community. He cautioned that the organic label is something to be very "wise" about.

[2:44:52 PM](#)

CO-CHAIR TARR removed her objection to adopting Version 0 as the working document. There being no further objection, Version 0 was before the committee.

[2:45:18 PM](#)

CO-CHAIR TARR reopened public testimony.

[2:45:29 PM](#)

DEIRDRE HELFFREICH testified that there is a need for this bill simply to establish the legality of community seed libraries. There is a difference between a seed library and a seed bank, she pointed out. The seed vault in Norway holds germplasm for particular individuals or companies. They are required to share the first generation with other researchers, but otherwise the seeds are held in deep freeze like would be done in a living museum. A seed library is trying to establish living plants that have adapted to a certain area, and to increase biodiversity, educate the community, and help fellow gardeners.

MS. HELFFREICH stated she has some concerns with Version 0. She drew attention to the provision in [subsection] (c) that begins on page 3, line 30, and which states, "Seed given, exchanged, or offered for giving or exchange under (b) of this section must be packaged for sale and labeled with ...." She said the [five] labeling requirements that follow [on page 4, lines 1-6,] would put an undue burden on seed libraries and would result in yet another volunteer event that a seed library would have to do. She noted she is speaking for herself, but that she was the founder of the seed library in Ester. She also pointed out that the provision refers to sellers and packaging for sale and is contradicted by [paragraph] (5) on page 4, lines 5-6, which state, "the statement 'Not authorized for commercial use and not classified, graded, or inspected by the State of Alaska.'" She said there is an inherent contradiction and that part of the provision looks like it is created for sellers and part of it looks like it is created for individuals and organizations giving seeds.

MS. HELFFREICH further pointed out that making organizations responsible for keeping track of how much a person receives in a year, or just receives, is problematic. She also stated that the labeling requirement on page 4, line 2, to include the seller's name and address, would result in fewer people participating in these organizations.

MS. HELFFREICH said she has 14 years of professional experience working as the science editor at the University of Alaska Fairbanks (UAF) School of Natural Resources and Agricultural Sciences. She noted she has submitted written testimony and reiterated her appreciation for the bill.

[2:51:21 PM](#)

CO-CHAIR TARR advised that the committee intends to consider an amendment that would address in part Ms. Helffreich's concern about the seller's name and address. Regarding the tracking of weight, she noted that Version O raises the weight to one pound. She asked whether this would address Ms. Helffreich's concern or whether her concern is that tracking the cumulative amount would be challenging.

MS. HELFFREICH replied that her concern is the idea of having to track [the weight].

[2:51:36 PM](#)

JAN FLORA testified she appreciates HB 197 and Version O because it would help with Alaska's food security concern and would build community resilience. She said that until she read the bill she had no idea that seed savers and seed swappers were outlawed. She noted Homer has over 200 high tunnels, the most in any zip code in the entire U.S. Small agriculture is booming in Homer, she continued, and people in Homer want to build a seed library, so the bill would help with this and would help the Homer community grow more food for its families.

[2:53:18 PM](#)

REPRESENTATIVE PARISH referred to the concern that the packaging requirements would be a burden to seed libraries. He requested Ms. Flora's thoughts in this regard.

MS. FLORA responded that she concurs with the witness expressing this concern. She said she doesn't want to put her name and

address on the seeds. The seeds are swapped with friends and it is known where they go. She suggested that for purposes of a community seed library, perhaps a binder could be kept, and a code put on the packages for tracking where the seeds come from, so there is some capability of tracing seeds. She noted the bill states that DNR should publish where the seed libraries are; however, she continued, DNR already publishes a directory for Alaska Grown that lists all the farmers and stock growers that voluntarily want to be in the directory. She suggested that this directory would be a good place to publish seed library information.

[2:55:17 PM](#)

CO-CHAIR TARR closed public testimony.

[2:55:35 PM](#)

CO-CHAIR TARR moved to adopt Amendment 1, labeled 30-LS0493\O.1, Shutts, 4/26/17, which read:

Page 3, line 31:  
Delete "for sale"

Page 4, line 2:  
Delete "seller's name and address"  
Insert "name and address of the person giving or offering the seed"

Page 4, line 3:  
Delete "for sale"

Page 4, lines 7 - 9:  
Delete all material.

Page 4, lines 12 - 14:  
Delete "(1) that is harvested from a plant grown outside the state unless the seed is in the original packaging in which it was imported into the state;  
(2)"

Page 4, lines 22 - 23:  
Delete "AS 03.20.110 - 03.20.160"  
Insert "AS 03.20.110 - 03.20.150"

Page 5, lines 3 - 4:  
Delete all material.

[2:55:46 PM](#)

CO-CHAIR JOSEPHSON objected for discussion purposes.

[2:55:50 PM](#)

CO-CHAIR TARR explained that Amendment 1 would, in part, address the issue of information that is required. She said the amendment would remove some of the confusion about "the sale element of it" by deleting the words "for sale" on page 3, line 31. Thus, line 31 would read, "section must be packaged and labeled with". She said Amendment 1 would also do the following:

- delete from page 4, line 2, the words "seller's name and address" and insert "name and address of the person giving or offering the seed"
- delete from page 4, line 3, the words "for sale"
- delete all the language [of subsection (d)] on page 4, lines 7-9, to get at some of the issue about where seed was grown
- delete all the language on page 4, lines 12-14
- change the statutory reference on page 4, lines 22-23
- delete all the language on page 5, lines 3-4

[2:57:39 PM](#)

CO-CHAIR JOSEPHSON asked why the definition of "exchange" would not be needed.

MS. TASKER answered that because the bill's language has been cleaned up with the removal of buy or sell, Legislative Legal Services has advised that "exchange" does not need to be defined.

CO-CHAIR TARR stated that a conceptual amendment to Amendment 1 could be considered regarding the name and address of the person giving or offering the seed. She requested Mr. Carter's thoughts about the suggestion that this information could be held in a binder, so it would be available, but not physically on the package, in order to address the concerns of those people not wanting to give out their personal information [on the package].

MR. CARTER answered he thinks removal of that language would simplify that process. He offered his belief that, from a seed regulatory aspect, as long as there was a sign above the seed library itself with the name and address of the seed library above the seed sharing activities within that facility, it would meet the requirements of this legislation.

[2:59:45 PM](#)

REPRESENTATIVE PARISH, in response to Mr. Carter's answer, offered his understanding that from the point of view of the department it would be sufficient to have the name and address of the seed library rather than the provider of the original seed.

MR. CARTER replied that is correct.

CO-CHAIR TARR clarified that the name and address would be specific to the seed library, not specific to the individual person.

[3:00:21 PM](#)

REPRESENTATIVE RAUSCHER asked who is responsible if the address of the seller is on the packet.

CO-CHAIR TARR responded the name and address could be the seed library and location, rather than the name of the person who donated the seeds to that library.

REPRESENTATIVE RAUSCHER asked who would be responsible and who would be contacted in case of problems if it is the name and address of the seed library, not the [seed] producer.

MS. TASKER replied that the purpose of creating a community seed library is that it gives the department a place to go if there is a problem, and allows some path for tracking if need be. In the smaller communities, regardless of whether someone's name and address were written down, the community members would likely know who is giving what seeds. She deferred to Mr. Carter to answer the question further.

MR. CARTER responded that who is liable is a difficult question and he is not sure what [a seed library's] liability would be. If the issue was an invasive weed, or marijuana seed was being exchanged, or another item that this legislation made

inapplicable [to current regulation], it would be the responsibility of the seed library to stop that activity.

[3:02:42 PM](#)

REPRESENTATIVE WESTLAKE stated the intent of the bill is to allow people to exchange seeds.

REPRESENTATIVE JOHNSON thanked the bill sponsor for her hard work and response to people's opinions by rewriting the bill. She said that while the state must do due diligence when it comes to invasive species and so on, people will continue to share seeds. She expressed her support for the bill.

[3:04:18 PM](#)

REPRESENTATIVE DRUMMOND moved to adopt Conceptual Amendment 1 to Amendment 1, to change line 6 to read as follows:

Insert "name of seed library giving or offering the seed"

CO-CHAIR TARR objected for discussion purposes. Drawing attention to page 3, line 20, Version 0, she pointed out that Section 03.20.120 is the community seed library section. So, she said, while it says the name and address of the person giving or offering the seed, it is supposed to mean the community seed library because it is in that section.

[3:05:31 PM](#)

REPRESENTATIVE DRUMMOND addressed her proposed conceptual amendment to Amendment 1. She noted that the objection heard in testimony was that people didn't want the name and address of the giver of the seed. The suggestion heard in conversation was replace the giver's name and address with the name of the seed library that was the source of the seed.

CO-CHAIR TARR explained that the way the language is currently written, it actually is the community seed library. She said Conceptual Amendment 1 to Amendment 1 could be considered for points of clarity, but asked whether Representative Drummond would like to remove the word "address".

REPRESENTATIVE DRUMMOND asked whether the seed library is being referred to as the person.

CO-CHAIR TARR answered yes.

REPRESENTATIVE DRUMMOND further addressed her conceptual amendment to Amendment 1. She said it should only say the name of the seed library. If the community being talked about is Ester, for example, Mr. Carter will know it is the seed library in Ester. Also, as stated in testimony, it would take half a page in the [Alaska Grown directory] to list all the seed libraries. She stated she is trying to address the concerns of the testifiers and the concern she heard loud and clear is that they do not want their names and addresses distributed. The seed library should be tracking these things and if there is an issue with the seed and there is a need to find out from whom it came, the seed library can be responsible for tracking that.

[3:07:40 PM](#)

REPRESENTATIVE JENNIFER JOHNSTON, Alaska State Legislature, sponsor, offered her opinion that the language should be left as is because there are opportunities for individuals to act in an exchange where it might still be wanted to have the individual's name and address there versus just the seed library.

REPRESENTATIVE PARISH spoke in support of Conceptual Amendment 1 to Amendment 1. It would be adequate, he continued, to say that a community seed library should make reasonable accommodations for participants to know X, Y, and Z, to avoid having to individually label each package.

CO-CHAIR TARR restated Conceptual Amendment 1 to Amendment 1 as follows: On line 6, after "name" insert "of the community seed library" and delete "and address of the person". Thus, line 6 would read, "name of the community seed library giving or offering the seed."

REPRESENTATIVE DRUMMOND confirmed the restatement as correct.

[3:09:26 PM](#)

CO-CHAIR TARR removed her objection. There being no other objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[3:09:51 PM](#)

REPRESENTATIVE PARISH noted that Amendment 1 removes a couple of restrictions on seeds that originate out of state, one of those being that the seeds should be in their original packaging.

Removal of these restrictions, he said, makes him less comfortable with the bill, particularly for setting a number of other requirements on it, in which the origin of the seed could be lost. He reiterated his earlier concern that if it is going to be made unclear which seeds are coming from instate and which seeds are not, it only makes it more important that they be held to the same standards with regard to toxins. With the amendment as offered, he posited, there is no reason why seeds treated with neonicotinoids, for example, couldn't be passed off in a community seed library.

MS. TASKER said she and Mr. Carter talked about the removal of that specific language, "the original packaging", and this language would make this process more complicated for people trying to share seeds. She offered her understanding that a seed going out of any state must still comply with the Federal Seed Act and there still are safeguards to prevent harmful seeds from going one place to another without any control. So, she continued, [Amendment 1] would not remove any safeguards, rather it is an access issue.

[3:12:11 PM](#)

CO-CHAIR TARR rescinded her motion to move Amendment 1.

[HB 197 was held over.]

[3:13:07 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:13 p.m.